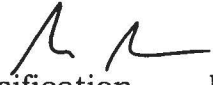


May 30, 2025

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MEMO TO: ADEPT-3 File

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

SUBJECT: **TRANSMITTAL OF INFORMATIONAL DOCUMENT RELATING TO
BILL 75 (2025), AMENDING THE COMPREHENSIVE ZONING
ORDINANCE ON AGRICULTURAL TOURISM** (ADEPT-3)

The attached informational document pertains to Item 3 on the
Committee's agenda.

adept:ltr:003afile01:ebm

Attachment

RICHARD T. BISSEN, JR.
Mayor

KATE L. K. BLYSTONE
Director

ANA LILLIS
Deputy Director



DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAII 96793

RECEIVED
2025 APR 15 PM 3:36
OFFICE OF THE
COUNTY CLERK

April 11, 2025

Honorable Richard T. Bissen, Jr.
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

Richard Bissen 4-15-25
Mayor Date

For Transmittal to:

Honorable Alice Lee, Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Chair Lee and Council Members:

SUBJECT: A BILL FOR AN ORDINANCE TO AMEND CHAPTER 19.30A, MAUI COUNTY CODE, TO ALLOW FOR AGRICULTURAL TOURISM AS AN ACCESSORY USE IN THE AGRICULTURAL DISTRICT

Background Information

On November 21, 2024, the Council's Agriculture, Diversification, Environment, and Public Transportation (ADEPT) Committee held a meeting to consider Resolution 24-172, which would refer to the Lāna'i, Maui and Moloka'i Planning Commissions a proposed bill to allow for agricultural tourism as an accessory use in the Agricultural zoning district. The Committee forwarded the resolution to the County Council for consideration.

On December 6, 2024, the County Council adopted Resolution 24-172, CD1, FD1 (attached), with direction to refer the proposed bill to the Planning Commissions for appropriate action and transmittal of their findings and recommendations to the Council.

Planning Department Recommended Revisions:

The attached report to the Commissions was provided by the Planning Department (Department)

Honorable Richard T. Bissen, Jr.

For Transmittal to:

Honorable Alice Lee and Members of the Maui County Council

April 11, 2025

Page 2

with its analysis and recommendation of approval with the following revisions for the Planning Commissions' consideration:

1. Minor Revision: Remove the last sentence of proposed section 19.30A.(B)(15)(a) as follows: "~~A restaurant is not permitted.~~" The purpose of this proposed minor revision is to provide clarity with the existing Maui County Code (MCC). Specifically, the MCC already permits a restaurant type use, also known as an "Agricultural food establishment," on all Agricultural District properties in the County if it meets all requirements of a "Commercial agricultural structure."
2. Minor Revision: The third introductory paragraph under proposed section 19.30A.(B)(15) indicates that "*For purposes of off-street parking under chapter 19.36B, agricultural tourism is considered passive recreation*" (emphasis added). MCC chapter 19.36B indicates the parking requirement for "*Passive recreation*" as 0 parking spaces for up to 2 acres and 4 parking spaces for more than 2 acres, and that paving of the parking spaces is not required. The Department is concerned that this would be insufficient parking for proposed agricultural tourism activities. The Department recommends using a parking rate similar to an "*Active recreation*" use such as "*Site for motor sports, paintball, zip lines, fitness course,*" which per MCC chapter 19.36B would require 1 parking space per 2 participants. As such, the Department recommends a revision to MCC chapter 19.36B that would add a new use type of "Agricultural tourism on a farm" to the table in chapter 19.36B.020 with a parking requirement indicating "*1 parking space per 2 participants (paving not required).*" Related, the Department also recommends revising the proposed sentence within the third introductory paragraph as follows, "*For purposes of the number of off-street parking spaces required, all agricultural tourism activities shall comply with under chapter 19.36B, agricultural tourism is considered passive recreation.*"
3. Minor Revision: Revise section 19.30A.(B)(15)(d) to read as follows: "*The sale of agricultural products and non-agricultural commemorative items may be permitted in compliance with the requirements of section 19.30A.072 – Commercial agricultural structures. ~~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.~~*" The Hawai'i Revised Statutes (HRS) requires an ordinance for agricultural tourism and one of the provisions of the ordinance shall include, "(2) Requirements and restrictions for accessory facilities connected with the farming operation, including gift shops and restaurants" (emphasis added). The MCC already allows for an "Agricultural retail structure" provided that it meets the requirements of a "Commercial agricultural structure." So as not to have multiple gift shops/retail structures on an agricultural parcel, the Department would prefer that the farm obtain approval of a commercial agricultural structure for this type of use.
4. Minor Revision: Unlike the current MCC provisions for establishing "Commercial agricultural structures," the proposed ordinance does not include any type of County review procedure for an agricultural tourism use. As such, the proposed regulatory provisions will be subject to the farm's

Honorable Richard T. Bissen, Jr.

For Transmittal to:

Honorable Alice Lee and Members of the Maui County Council

April 11, 2025

Page 3

voluntary compliance with no County oversight unless a complaint is received after the activity has started. The Department is concerned that a farmer may commit to an investment in agricultural tourism without full knowledge of the requirements and be subject to enforcement and penalty if compliance is not achieved. The Department recommends that, similar to the existing MCC's treatment for "Commercial agricultural structures," a registration process with the Department be required for any agricultural tourism activity proposed. The following new text is proposed to be added:

"f. Registration. Producers who propose to own or operate an agricultural tourism activity shall register the activity 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 activity is located.**
- 3. 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, 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 activity is located.**
- 4. The type of activity 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.**
- 6. Any additional information requested by the planning director."**

5. Minor Issues - Seeking Commission Input: There are two provisions within the proposed ordinance that the Department believed important to raise to the Commissions, and while the Department did not propose any revisions, it did seek the Commissions' input and recommendations, if any, to the County Council. These are as follows:

- a. The proposed ordinance's fourth introductory paragraph indicates, "*Activities related to indigenous cultural traditions should not be misappropriated and should be practiced with respect for the host culture's intellectual property, including traditional and ancestral knowledge.*" The Department agrees with this statement and would hope that it is complied with, however, the statement is subject to interpretation and the Department simply desires to note that it is unenforceable.
- b. Proposed section 19.30A.(15)(c) provides for an agricultural tourism activity that may not be specifically related to the principal farm activity. Specifically, this section allows for "*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.*" While the Department is not opposed to this activity, it simply desires to note that it may not be related to the principal farm activity.

Honorable Richard T. Bissen, Jr.
For Transmittal to:
Honorable Alice Lee and Members of the Maui County Council
April 11, 2025
Page 4

Planning Commission Recommendations

Public hearings were held by the Lānaʻi Planning Commission on February 19, 2025, the Maui Planning Commission on February 25, 2025, and the Molokaʻi Planning Commission on February 26, 2025. Attached are the minutes from each of these meetings. The following is a summary and action taken during each meeting:

- **Lānaʻi Planning Commission Meeting (February 19, 2025):**

The Commission recommended approval of the proposed bill with the Planning Department's recommended amendments 1 through 4, as noted above. The Commission did not provide specific input upon the minor issues identified by the Department in 5.a and 5.b above.

- **Maui Planning Commission Meetings (February 25, 2025):**

The Commission recommended approval of the proposed bill with the following amendments:

- Approve the Planning Department's recommended amendments 1 through 4, as noted above.
- Regarding the Department's issue 5.a, as noted above, the Commission recommended a change to the ordinance that would strengthen this requirement from "should" to "must" as follows:

*"Activities related to indigenous cultural traditions ~~should~~ **must** not be misappropriated and ~~should~~ **must** be practiced with respect for the host culture's intellectual property, including traditional and ancestral knowledge."*

Further, the Commission recommended that the County Council consult with the Department of 'Ōiwi Resources as to how this provision could be enforced.

- Regarding the Department's issue 5.b, as noted above, the Commission expanded the type of this activity by recommending the following change:

"Traditional or ancestral activities related to the location and movement of celestial and elemental bodies. 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."

- To address the potential for a cease in farming operations due to unforeseen circumstances such as inclement weather, disease, infestations, supply chain disruptions or change in crop type, the Commission recommended that the second paragraph of Section 19.30A.050(B)(15) be revised as follows:

Honorable Richard T. Bissen, Jr.

For Transmittal to:

Honorable Alice Lee and Members of the Maui County Council

April 11, 2025

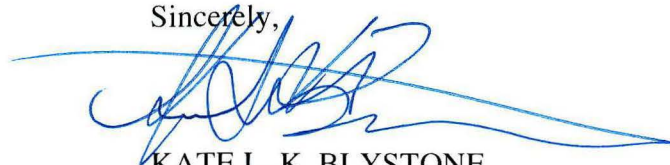
Page 5

“Agricultural tourism activities must not operate before 8:00 a.m. or after 6:00 p.m., unless otherwise noted. Agricultural activities are no longer permitted as accessory uses if farming operations cease without any sign of meaningful farming operations for 60 consecutive days.”

- The Commission was concerned regarding Section 19.30A.050(B)(15)(a) and recommended that the Council examine the existing language noting “*products in the State of Hawai‘i*” versus on the farm. Additionally, in this section, they recommended to change the verbiage “*State of Hawai‘i*” to just “*Hawai‘i.*” Further, the Commission requested that the Council consider categorizing or generalizing similar classes of activity as described in this section.
- In Section 19.30A.050(B)(15)(b), sixth line, the Commission recommended replacing the phrase “*pili house building*” with “*traditional hale building.*”
- **Moloka‘i Planning Commission Meeting (February 26, 2025):**
The Commission recommended the approval of the proposed bill with the Planning Department’s recommended amendments 1 through 4, as noted above, but with exception to Moloka‘i. The Commission did not provide specific input upon the minor issues identified by the Department in 5.a and 5.b above.

Thank you for your attention and consideration. Should further clarification be necessary, please feel free to contact me.

Sincerely,



KATE L. K. BLYSTONE

Director

Attachments:

Department Transmittal Letter to PC with attachments

Lāna‘i PC Minutes, February 19, 2025 – Link: <https://mauicounty.gov/ArchiveCenter/ViewFile/Item/32633>

Maui PC Minutes, February 25, 2025 – Link: <https://mauicounty.gov/ArchiveCenter/ViewFile/Item/32679>

Moloka‘i PC Minutes, February 26, 2025 – Link: <https://mauicounty.gov/ArchiveCenter/ViewFile/Item/32646>
Resolution 24-172, CD1, FD1

cc: Ana Lillis, Deputy Planning Director (pdf)

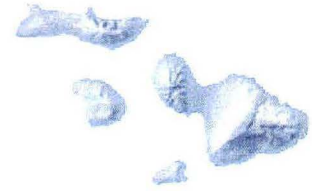
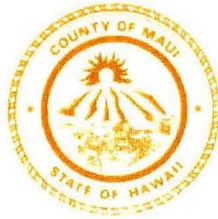
Gregory Pfof, Administrative Planning Officer (pdf)

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RICHARD T. BISSEN, JR.
Mayor

KATE L. K. BLYSTONE
Director

ANA LILLIS
Deputy Director



DEPARTMENT OF PLANNING
COUNTY OF MAUI
ONE MAIN PLAZA
2200 MAIN STREET, SUITE 315
WAILUKU, MAUI, HAWAII 96793

February 19, 2025

MEMORANDUM

TO: MAUI PLANNING COMMISSION
MOLOKA'I PLANNING COMMISSION
LĀNA'I PLANNING COMMISSION

FROM: KATE L.K. BLYSTONE, Planning Director 

SUBJECT: **A BILL FOR AN ORDINANCE TO AMEND CHAPTER 19.30A, MAUI COUNTY CODE, TO ALLOW FOR AGRICULTURAL TOURISM AS AN ACCESSORY USE IN THE AGRICULTURAL DISTRICT**

The attached bill proposes to amend specific sections within Title 19 of the Maui County Code to allow for agricultural tourism as a new accessory use in the Agricultural zoning district. As discussed in this report, the Department is generally supportive of the proposed bill with noted recommended revisions.

Background Information

County Council Direction:

On November 21, 2024, the Council's Agriculture, Diversification, Environment, and Public Transportation (ADEPT) Committee held a meeting to consider Resolution 24-172, which would refer to the Lāna'i, Maui and Moloka'i Planning Commissions a proposed bill to allow for agricultural tourism as an accessory use in the Agricultural zoning district. The Committee forwarded the resolution to the County Council for consideration.

On December 6, 2024, the County Council adopted Resolution 24-172, CD1, FD1 (attached), with direction to refer the proposed bill to the Planning Commissions for appropriate action and transmittal of their findings and recommendations to the Council. Also attached is ADEPT Committee Report 24-111; a report to Council that provides additional background information on the matter.

State Law Requirements Regarding Agricultural Tourism:

State law allows agricultural tourism activities in the agricultural district through Hawai'i Revised Statutes (HRS) sections 205-2(d)(11) and 205-4.5(a)(13), which state:

- *HRS 205(d)(11): “(d) Agricultural districts shall include: “(11) Agricultural tourism conducted on a working farm, or a farming operation as defined in section 165-2, for the enjoyment, education, or involvement of visitors; provided that the agricultural tourism activity is accessory and secondary to the principal agricultural use and does not interfere with surrounding farm operations; and provided further that this paragraph shall apply only to a county that has adopted ordinances regulating agricultural tourism under section 205-5.”*

Thus, for the County of Maui to allow for agricultural tourism activities, it must adopt an ordinance regulating agricultural tourism activities under the provision of HRS 205-5(b), which requires:

(b) Within agricultural districts, uses compatible to the activities described in section 205-2 as determined by the commission shall be permitted; provided that accessory agricultural uses and services described in sections 205-2 and 205-4.5 may be further defined by each county by zoning ordinance. Each county shall adopt ordinances setting forth procedures and requirements, including provisions for enforcement, penalties, and administrative oversight, for the review and permitting of agricultural tourism uses and activities as an accessory use on a working farm, or farming operation as defined in section 165-2. Ordinances shall include but not be limited to:

- (1) Requirements for access to a farm, including road width, road surface and parking;*
- (2) Requirements and restrictions for accessory facilities connected with the farming operation, including gift shops and restaurants;*
- (3) Activities that may be offered by the farming operation for visitors;*
- (4) Days and hours of operation; and*
- (5) Automatic termination of the accessory use upon the cessation of the farming operation.*

Existing Maui County Code Requirements Regarding Agricultural Tourism:

Maui County Code (MCC) Chapter 19.30A establishes the types of permitted uses and structures allowed on property located within the Agricultural Zoning District. Regarding uses, the chapter identifies allowable “Principal uses,” “Accessory uses,” and “Special uses.”

Related to the matter at hand, while the existing MCC allows some types of “Accessory Uses” that to some degree cater to tourists, the County has not adopted an Agricultural Tourism Ordinance in compliance with HRS. For example, the Agricultural District currently allows, as “Accessory Uses,” which are supposed to be incidental or subordinate to, or customarily used in conjunction with a permitted principal use, the following types of tourist activities:

- *“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” (emphasis added).*
- Under certain conditions, *“except on Moloka‘i, bed and breakfast homes.”*
- Under certain conditions, *“short-term rental homes permitted under chapter 19.65.”*

Discussion

Proposed Amendment:

As noted in the attached Ordinance, the proposed amendment would add a new “Accessory Use” to MCC section 19.30A.050(B), entitled *“15. Agricultural tourism on a farm.”* Proposed new sections 19.30A.050(B)(15)(a), (b) and (c) would allow for only the following specific types of agricultural tourism activities:

“a. Demonstrations or presentations using agricultural products produced in the state of Hawai‘i, including 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, 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 subsection 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.”

Importantly, the proposed Ordinance includes the following regulatory provisions to ensure consistency with the ordinance requirements of HRS 205-5 and to address potential issues to agricultural lands:

- Tourism activities must occur on a “farm,” which by MCC definition means that a majority of the land, or 51%, of the area of the land is used for the predominant activity of agriculture or agricultural land conservation.
- The tourism activity must support, be related to the principal farm activity and not interfere with the principal uses.
- With exception to activity type “c” above, tourism activities are restricted to the hours of 8am to 6pm.
- If the farming operations cease on the property, then the tourism activity must cease as well.
- The farm must have legal access to a public highway and consultation with the Department of Fire and Public Safety is required if ingress/egress access is less than 20 feet wide.
- Off-street parking is required consistent with “passive recreation,” which requires 0 parking spaces for up to 2 acres and 4 parking spaces for above 2 acres.
- Activities related to indigenous cultural traditions should not be misappropriated and should be practiced with respect for the host culture’s intellectual property, including traditional and ancestral knowledge.

Consideration of General Plan and Zoning Code Policy regarding Agricultural Districts:

When amending the Zoning Code, it is necessary to ensure that such amendments are consistent with the County’s General Plan. As it pertains to the proposed Bill, retaining and encouraging agricultural lands in the County of Maui is imperative as described through the General Plan and Maui County Code. For example, amongst many policies, the Countywide Policy Plan, indicates:

- *“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.”*

Further, the Maui Island Plan indicates:

- *“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.”*

The Maui County Code (MCC) implements these policies primarily through Chapter 19.30A of Title 19, Maui County Code, which regulates the County’s Agricultural District (District). The stated purpose of the District is to:

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

Further, the intent of the District confirms the importance of agricultural use through the following statements: *“1) Reduce the land use conflicts arising from encroachment of nonagricultural uses into agricultural areas; 2) Mitigate rising property values of farm lands to make agricultural use more economically feasible; 3) 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.”*

The District’s development standards and list of permitted uses implements the District’s purpose and intent of retaining and encouraging agricultural use by incorporating standards that regulate the development, subdivision and use of agricultural lands. For example, the required minimum two-acre lot area for the subdivision of agricultural lands is significantly large when compared to all other minimum lot sizes found in other land use districts; thereby preserving larger agricultural lots. Further, the development standards control the amount of developable area for farm dwellings on an agricultural lot to a maximum of ten percent of the total lot area. Additionally, the District’s permitted “Principal uses” are mainly those of an agricultural nature, such as “Agriculture,” “Agricultural land conservation,” “Agricultural parks,” and “Animal and livestock raising,” amongst others. Appropriate for a land use district with a purpose to encourage agriculture as the primary use, structures that support the principal agricultural uses are identified as “Accessory uses” that are incidental or subordinate to, or customarily used in conjunction with, the permitted principal use of agriculture.

While the information noted above provides policy direction on the importance of retaining and encouraging agricultural lands, the General Plan also includes policy direction that encourages support for farmers in other ways. For example, amongst many policies, the Countywide Policy Plan, indicates:

- *“Objective 1.a: Develop regulations and programs that support opportunities for local merchants, farmers, and small businesses to sell their goods and services directly to the public.*

- *Objective 3.d: Promote the teaching of traditional practices, including aquaculture; subsistence agriculture; Pacific Island, Asian, and other forms of alternative health practices and indigenous Hawaiian architecture.*
- *Objective 4.a: Support emerging industries, including the following: Agritourism industry.*
- *Objective 4.b: Provide opportunities and incentives for self-sufficient and subsistence homesteads and farms.”*

Further, the Maui Island Plan indicates:

- *“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.*
- *Action 4.3.1-Action 3: Propose revisions to the zoning ordinance to allow the direct marketing of the island’s agricultural products through farmers markets, “pick-your-own” farms, farm stands, and similar venues.*
- *Policy 4.5.1.e: Support community markets and venues that sell locally made produce, goods, and services.”*

Additionally, various Community Plans indicate:

- *“Hana CP Policy 7: Maintain the visitor industry as a major economic activity, encouraging commercial activities which focus on the “day” visitor market and/or complement the “overnight” visitor market.”*
- *“Makawao-Pukalani-Kula CP Action 1: Analyze the zoning and subdivision ordinances and revise wherever needed to facilitate and support the maintenance and development of diversified agricultural activities.”*

When evaluating consistency of an amendment to the Zoning Code with the General Plan, it is equally important to evaluate those policies that, in this case, desire to retain and encourage agricultural resources with those that desire to provide opportunities for farmers so that agricultural production may continue and support the community. Balancing these policies is imperative when formulating code amendments that meet the overall intent of the General Plan and protection of the community.

Department Issues and Recommendations:

As described above, the MCC provides for limited opportunities for agricultural tourism and the proposed amendment would provide for more of that opportunity. The proposed amendment is consistent with HRS sections 205-2 and 205-4.5, which recognizes statewide, the ability for counties to provide for agricultural tourism opportunities. Importantly, HRS recognizes the importance of agricultural tourism activities operating on a working farm and ensuring that the agricultural tourism activities are accessory and secondary to the principal agricultural use and do not interfere with surrounding farm operations. The proposed amendment is consistent with these HRS principals through its regulatory measures as noted above.

The Department's initial overall concern with the proposed bill was the potential commercialization of the agricultural districts through tourism activities that may take predominance over and/or replace the primary purpose of the Agricultural District; namely to retain and encourage agricultural use. However, as noted above, the State, through HRS, does anticipate that some tourism activities are permissible on a working farm. Importantly, the proposed ordinance includes provisions to ensure that the tourism activity is operating on a working farm, specifically related to the principal farming activity, and will cease if the farming activity ceases. Therefore, the Department's overall concern appears to have been addressed and it is believed that the proposed Ordinance is consistent with the General Plan and State law.

However, there are some relatively minor modifications to the proposed Ordinance that the Department recommends for Commission consideration:

1. Minor Revision: Remove the last sentence of proposed section 19.30A.(B)(15)(a) as follows: "~~A restaurant is not permitted.~~" The purpose of this proposed minor revision is to provide clarity with the existing MCC. Specifically, the MCC already permits a restaurant type use, also known as an "Agricultural food establishment," on all Agricultural District properties in the County if it meets all requirements of a "Commercial agricultural structure."
2. Minor Revision: The third introductory paragraph under proposed section 19.30A.(B)(15) indicates that "*For purposes of off-street parking under chapter 19.36B, agricultural tourism is considered passive recreation.*" MCC chapter 19.36B indicates the parking requirement for "Passive recreation" as 0 parking spaces for up to 2 acres and 4 parking spaces for above 2 acres, and that paving of the parking spaces is not required. The Department is concerned that this would be insufficient parking for proposed agricultural tourism activities. The Department recommends using a parking rate similar to an "Active recreation" use such as "Site for motor sports, paintball, zip lines, fitness course," which per MCC chapter 19.36B would require 1 parking space per 2 participants. As such, the Department recommends a revision to MCC chapter 19.36B that would add a new use type of "Agricultural tourism on a farm" to the table in chapter 19.36B.020 with a parking requirement indicating "*1 parking space per 2 participants (paving not required).*" Related, the Department also recommends revising the proposed sentence within the third introductory paragraph as follows, "*For purposes of the number of off-street parking spaces required, all agricultural tourism activities shall comply with under chapter 19.36B, agricultural tourism is considered passive recreation.*"
3. Minor Revision: Revise section 19.30A.(B)(15)(d) to read as follows: "*The sale of agricultural products and non-agricultural commemorative items may be permitted in compliance with the requirements of section 19.30A.072 – Commercial agricultural structures. 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.~~” As noted above, HRS requires an ordinance for agricultural tourism and one of the provisions of the ordinance shall include, “(2) *Requirements and restrictions for accessory facilities connected with the farming operation, including gift shops and restaurants*” (emphasis added). The MCC already allows for an “Agricultural retail structure” provided that it meets the requirements of an “Commercial agricultural structure.” So as not to have multiple gift shops/retail structures on an agricultural parcel, the Department would prefer that the farm obtain approval of a commercial agricultural structure for this type of use.

4. Minor Revision: Unlike the current MCC provisions for establishing “Commercial agricultural structures,” the proposed ordinance does not include any type of County review procedure for an agricultural tourism use. As such, the proposed regulatory provisions will be subject to the farm’s voluntary compliance with no County oversight unless a complaint is received after the activity has started. The Department is concerned that a farmer may commit to an investment in agricultural tourism without full knowledge of the requirements and be subject to enforcement and penalty if compliance is not achieved. The Department recommends that, similar to the existing MCC’s treatment for “Commercial agricultural structures,” a registration process with the Department be required for any agricultural tourism activity proposed. The following new text is proposed to be added:

“f. Registration. Producers who propose to own or operate an agricultural tourism activity shall register the activity 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 activity is located.*
- 3. 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, 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 activity is located.*
- 4. The type of activity 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.*
- 6. Any additional information requested by the planning director.”*

5. Minor Issues - Seeking Commission Input: There are two provisions within the proposed ordinance that the Department believes it important to raise, and while it does not propose any revisions, it does seek the Commissions’ input and recommendations, if any, to the County Council. These are as follows:
 - a. The proposed ordinance’s fourth introductory paragraph indicates, “*Activities related to indigenous cultural traditions should not be misappropriated and should be practiced with respect for the host culture’s intellectual property, including traditional and ancestral*

knowledge.” The Department agrees with this statement and would hope that it is complied with, however, the statement is subject to interpretation and the Department simply desires to note that it is unenforceable.

- b. Proposed section 19.30A.(15)(c) provides for an agricultural tourism activity that may not be specifically related to the principal farm activity. Specifically, this section allows for *“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.”* While the Department is not opposed to this activity, it simply desires to note that it may not be related to the principal farm activity.

Hāna Advisory Committee Review:

At the November 21, 2024 ADEPT Committee meeting, Vice-Chair Sinenci requested that the bill be sent to the Hāna Advisory Committee for review given that the bill affects farmers in East Maui. Per MCC 2.28.050, only the Maui Planning Commission shall determine if a matter shall be reviewed by one of the Commission’s Advisory Committees. Thus, the Department seeks the Maui Planning Commission’s direction on this matter. If the Maui Planning Commission directs as such, then after the Hāna Advisory Committee provides their input, that input must be considered by the Maui Planning Commission as part of their deliberation and final recommendation to the County Council. Thus, if directed as such, then at the end of their meeting, the Maui Planning Commission should continue their deliberation on this matter to a future date uncertain to receive input from the Hāna Advisory Committees.

Agency Comments

The Planning Department reached out for comment on this draft bill to various agencies within and outside of the County. A summary of the comments received are as follows:

- U.S. Department of Agriculture (attached) – Reviewed and have no comments at this time.
- State of Hawai‘i, Office of Planning and Sustainable Development (attached) – No objection. The amendments appear consistent with HRS 205.
- State of Hawai‘i, Department of Agriculture (attached) – Comments: 1) concerned that the proposed terms (“must support”, “be related to”) that describe the relationship of the agricultural tourism activities to the principal farm activity are not equivalent to “incidental or subordinate to” as required in the description of the Accessory Use Section; and 2) supports establishing an emphasis on County-sourced agricultural products instead of the State since the “agricultural tourism activities...support...the principal farm activity”.

Additional Information:

Pending State Legislation:

It should be noted that in the current 2025 State Legislative session, two sets of differing companion bills (HB189/SB231 and HB966/SB1251) are moving through the legislative process, that if approved and signed by the Governor, would revise the provisions of HRS related to Agricultural Tourism by adding new requirements. The Department will continue to monitor this legislation. If approved and signed by the Governor, it may result in changes to the MCC, which will be brought back to the Planning Commissions and County Council for future consideration as necessary.

Recommendation and Options

As noted, the Department has recommended some minor modifications for the Commissions' consideration. The Commission has the following options:

1. For the Maui Planning Commission: determine if this bill should be forwarded to the Hāna Advisory Committee for review and comment prior to the Commission's final deliberations and recommendation to the Council.
2. Recommend approval of the proposed bill to the Maui County Council.
3. Recommend approval of the proposed bill with amendments to the Maui County Council.
4. Recommend denial of the proposed bill to the Maui County Council.
5. Vote to defer action on the proposed bill to gather specific additional information.

Attachments:

- Resolution 24-172
- ADEPT Committee Report 24-111
- Agency Comments from USDA, State OPSD, and State Dept. of Ag.

xc: Ana Lillis, Deputy Director (pdf)
Carolyn Cortez, Acting Planning Program Administrator, ZAED (pdf)
Gregory Pfost, Administrative Planning Officer (pdf)

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

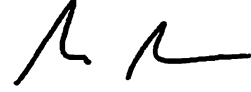
WHEREAS, the Council is considering a proposed bill to amend the Comprehensive Zoning Ordinance on agricultural tourism; and

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 series of loops and a horizontal stroke.

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.

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

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."

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.

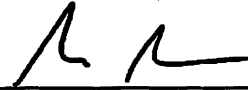
SECTION 4. This Ordinance takes effect on approval.

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 series of loops and a horizontal stroke at the end.

GABE JOHNSON

COUNCIL OF THE COUNTY OF MAUI
AGRICULTURE, DIVERSIFICATION,
ENVIRONMENT, AND PUBLIC
TRANSPORTATION COMMITTEE

December 6, 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 November 21, 2024, makes reference to Resolution 24-172, entitled “REFERRING TO THE LĀNA‘I, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL AMENDING THE COMPREHENSIVE ZONING ORDINANCE ON AGRICULTURAL TOURISM.”

Resolution 24-172’s purpose is to refer to the planning commissions a proposed bill, entitled “A BILL FOR AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE ON AGRICULTURAL TOURISM,” attached as Exhibit “1,” for their findings and recommendations.

The purpose of the proposed bill is to establish agricultural tourism as an accessory use in the Agricultural District.

Your Committee notes that 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.

COUNCIL OF THE COUNTY OF MAUI
AGRICULTURE, DIVERSIFICATION,
ENVIRONMENT, AND PUBLIC
TRANSPORTATION COMMITTEE

Page 2

Committee
Report No. _____

By correspondence dated November 21, 2024, the Chair of your Committee transmitted a proposed CD1 version of Resolution 24-172, which amends Exhibit “1” to clarify the hours of operation for agricultural tourism activities.

The Director of ‘Ōiwi Resources expressed support for Resolution 24-172 but was concerned about the commodification of traditional and native practices and cultural appropriation.

A Department of Fire and Public Safety representative suggested consulting with farms where the primary point of ingress or egress measured less than 20 feet in width to determine access points for emergency response vehicles.

Your Committee agreed to further amend Resolution 24-172, to:

- Include “activities related to indigenous cultural traditions should not be misappropriated and should be practiced with respect for the host culture’s intellectual property, including traditional and ancestral knowledge”;
- Require consultation with the Department of Fire and Public Safety if the farm’s primary point of ingress or egress is less than 20-feet wide; and
- Replace “poi pounding” for the culturally appropriate term “pa’i’ai.”

Your Committee notes that the proposed bill would further:

1. A Countywide Policy Plan directive to: “Promote the teaching of traditional practices, including aquaculture; subsistence

COUNCIL OF THE COUNTY OF MAUI
AGRICULTURE, DIVERSIFICATION,
ENVIRONMENT, AND PUBLIC
TRANSPORTATION COMMITTEE

Page 3

Committee
Report No. _____

agriculture; Pacific Island, Asian, and other forms of alternative health practices; and indigenous Hawaiian architecture.” (Page 53)

2. A Maui Island Plan directive to: “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.” (Page 4-13)

Your Committee voted 4-0 to recommend adoption of Resolution 24-172, CD1. Committee Chair Johnson, Vice-Chair Sinenci, and members Cook and Lee voted “aye.” Committee members Rawlins-Fernandez, Sugimura, and U’u-Hodgins were excused.

Your Committee is in receipt of Resolution 24-172, CD1, incorporating your Committee’s recommended revisions and nonsubstantive revisions.

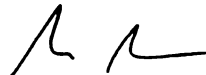
Your Agriculture, Diversification, Environment, and Public Transportation Committee RECOMMENDS that Resolution 24-172, CD1, as revised herein and attached hereto, entitled “REFERRING TO THE LĀNA’I, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL AMENDING THE COMPREHENSIVE ZONING ORDINANCE ON AGRICULTURAL TOURISM,” be ADOPTED.

COUNCIL OF THE COUNTY OF MAUI
**AGRICULTURE, DIVERSIFICATION,
ENVIRONMENT, AND PUBLIC
TRANSPORTATION COMMITTEE**

Page 4

**Committee
Report No.** _____

This report is submitted in accordance with Rule 8 of the Rules of the Council.



GABE JOHNSON, Chair

adept:cr:24018aa:sgt

Gregory J. Pfost

From: Robello, James - FPAC-FSA, HI <james.robello@usda.gov>
Sent: Thursday, October 24, 2024 3:06 PM
To: Gregory J. Pfost
Subject: RE: [External Email]Request for agency comment regarding proposed updates to Maui County Code Chapter 19.30A - Agricultural District

Aloha Greg,

I read the proposed resolutions and do not have a comment at this time. Thank you for the information.

James Robello
USDA Farm Service Agency
77 Hookele St., #201
Kahului, HI 96732
Phone 808-871-5500 x 1740
Fax 855-356-9494

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From: Gregory Pfost <Gregory.J.Pfost@co.maui.hi.us>
Sent: Thursday, October 24, 2024 2:51 PM
To: Bradford Ventura <Bradford.Ventura@co.maui.hi.us>; John Stufflebean <John.Stufflebean@co.maui.hi.us>; Jordan Molina <Jordan.K.Molina@co.maui.hi.us>; Rogerene Arce <Rogerene.Arce@co.maui.hi.us>; Shayne Agawa <Shayne.Agawa@co.maui.hi.us>; webmail@doh.hawaii.gov; WarrenMCFB@gmail.com; earl.j.yamamoto@hawaii.gov; hdoa.info@hawaii.gov; maryalice.evans@hawaii.gov; hfuu@hfuu.org; Robello, James - FPAC-FSA, HI <james.robello@usda.gov>
Cc: Ana Lillis <Ana.Lillis@co.maui.hi.us>; Jordan Hart <Jordan.Hart@co.maui.hi.us>; Katie Blystone <Kate.Blystone@co.maui.hi.us>
Subject: [External Email]Request for agency comment regarding proposed updates to Maui County Code Chapter 19.30A - Agricultural District

External Email

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Aloha,

The Maui County Council is considering the attached Resolutions (24-171 and 24-172) referring to the Maui, Moloka'i and Lana'i Planning Commissions two proposed bills for review and comment that affect Maui County's Agricultural Zoning District.

Specifically, attached Resolution 24-171 proposes a bill to amend Title 19 - Zoning, Maui County Code (MCC), making mobile food trucks or trailers of 1,000 square feet or less permitted accessory uses on farms in the Agriculture District. The current MCC definition of "mobile food truck" means *"a motorized vehicle or vehicle-towed trailer in which food is cooked or prepared to order and is served to walkup customers, provided that the vehicle or trailer is not on the same*

lot for more than three consecutive days, in which case the use shall be considered an eating and drinking establishment." Attached Resolution 24-172 proposes a bill to amend Title 19 - Zoning, Maui County Code, to establish agricultural tourism as an accessory use in the Agricultural District.

Both Resolutions have been referred to the County Council's Agricultural, Diversification, Environment, and Public Transportation Committee (ADEPT) for further review and consideration before they would be sent to the Planning Commissions for review.

If you have any comments regarding the proposed bills, or even have "no comment", would you please let me know? Tentatively, these two Resolutions may be scheduled for the November, 2024 ADEPT Committee meeting. Given the tight time frame, it would be greatly appreciated if you could please respond with any comment or no comment prior to November 7, 2024.

Please let me know if you have any questions.

Mahalo,

Greg.

Gregory Pfost, AICP

Administrative Planning Officer

Department of Planning, ZAED

County of Maui

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

(808) 270-7965

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Gregory J. Pfost

From: Nakayama, Megumi <megumi.nakayama@hawaii.gov>
Sent: Monday, November 4, 2024 12:27 PM
To: Gregory J. Pfost
Cc: Balassiano, Katia; Ana L. Lillis; Jordan Hart; Katie L. Blystone
Subject: RE: Request for agency comment regarding proposed updates to Maui County Code Chapter 19.30A - Agricultural District

Sending on behalf of Katia Balassiano, Planning Program Administrator, Office of Planning & Sustainable Development (OPSD)

Aloha,

Thank you for the opportunity to review these proposed county ordinance revisions. OPSD has no objections to their passage. The amendments appear to be consistent with HRS Chapter 205 that includes agricultural tourism activities and agricultural commercial uses in the State Agriculture District.

Mahalo,

Katia Balassiano
katia.balassiano@hawaii.gov
(808) 587-2885

[OPSD website](#) | [geospatial data portal](#) | [subscribe to OPSD newsletter](#)



**STATE OF HAWAII
OFFICE OF PLANNING & SUSTAINABLE DEVELOPMENT**

Lālopa A Kamehameha
235 South Beretania Street, 6th Floor · Honolulu, Hawai'i · 96813
PO Box 2359 · Honolulu, Hawai'i · 96804-2359
Phone (808) 587-2846 · Fax (808) 587-2824

Gregory J. Pfost

From: Yamamoto, Earl J <Earl.J.Yamamoto@hawaii.gov>
Sent: Friday, November 8, 2024 1:06 PM
To: Gregory J. Pfost
Cc: Hurd, Sharon K; Kishida, Dexter K; Clingan, Marci; Ferrer, Jan Y
Subject: RE: [EXTERNAL] Request for agency comment regarding proposed updates to Maui County Code Chapter 19.30A - Agricultural District
Attachments: Reso 24-171.pdf; Reso 24-172.pdf

Aloha, Gregory:

Here are the comments of the Hawaii Department of Agriculture.

Resolution 24-171

Mobile Food Trucks on Trailers in the Agricultural District

Introduced by CM Gabe Johnson

To be heard before the Maui, Lanai, and Molokai planning commissions

The purpose of this proposed bill is to implement the following Countywide Policy Plan directive – “Develop regulations and programs that support opportunities for local merchants, farmers, and small businesses to sell and good and services directly to the public.”

The current zoning ordinance allows, without requiring special use permits, structures and buildings for agricultural product stands and agricultural food establishments, respectively, of 1,000 square feet or less that are owned and operated by producers (aka farmers or agricultural operators) that display and sell or prepare and sell food at retail using agricultural products grown, raised, or caught in the County and value-added products produced using agricultural products grown in Hawaii.

The proposed bill seeks to append “mobile food trucks or trailers” to the existing definitions of agricultural product stands and agricultural food establishments. Mobile agricultural products stands and agricultural food establishments on food trucks or trailers are to operate on farms operated by “producers”. “Producer” is defined as “...an owner, lessee, or licensee of land located within the agricultural district, who is engaged in the growing or production for sale of any agricultural product or value-added products on such land.” The Department supports the concept expressed in the proposed bill to the extent that it offers “producers” an opportunity to increase their economic viability by undertaking raw product and prepared food sales using Hawaii-grown agricultural products. The proposed bill deletes the emphasis on County-sourced agricultural products on display and sale or preparation and serving of food at retail. That being said, the 1,000 square foot limitation for the proposed mobile agricultural products stands and agricultural food establishment is very large. A 40-foot long by 8-foot wide shipping container is 320 square feet of floor space. The 500-foot separation of food trucks and trailers will prevent aggregation of these uses. If the proposed bill is to allow the producers to operate their mobile agricultural products stands and agricultural food establishments off their respective farms and in non-agricultural areas, that should be stated in Section 1. The Department supports retaining the emphasis on County-sourced agricultural products as the mobile agricultural products stands are already required to be operated on farms operated by “producers”. The Department has no comments to offer on the amendments to off-street parking spaces.

Resolution 24-172

Agricultural Tourism

Introduced by CM Gabe Johnson

To be heard before the Maui, Lanai, and Molokai planning commissions

Section 1 states the purpose of the proposed bill is to establish agricultural tourism as an accessory use in the County's agricultural district and to implement 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."

The proposed bill amends Section 19.30A.050(B)(15), MCC that identifies "...accessory uses are incidental or subordinate to, or customarily used in conjunction with, a permitted principal use..." by including agricultural tourism on a farm and where the "...agricultural tourism activities must support, be related to the principal farm activity, and not interfere with principal uses..." The Department is concerned that the proposed terms ("must support", "be related to") that describe the relationship of the agricultural tourism activities to the principal farm activity are not equivalent to "incidental or subordinate to" as required in this Section.

The proposed bill focuses on passive activities with a strong educational component that use agricultural products produced or processed in the State (no emphasis on or requirement for Maui County products) and may be sold in a gift shop. No restaurants are permitted. If the farming operation ceases, then the agricultural tourism activities are no longer permitted. The Department would support establishing an emphasis on County-sourced agricultural products as the proposed bill requires the "agricultural tourism activities...support...the principal farm activity"

Contact me directly with any questions or concerns.

Earl Yamamoto
Planner
Office of the Chairperson
Hawaii Department of Agriculture
1428 South King Street
Honolulu, Hawaii 96814
Email: earl.j.yamamoto@hawaii.gov
(808) 973-9466

From: Gregory Pfof <Gregory.J.Pfof@co.maui.hi.us>

Sent: Thursday, October 24, 2024 2:51 PM

To: Bradford Ventura <Bradford.Ventura@co.maui.hi.us>; John Stufflebean <John.Stufflebean@co.maui.hi.us>; Jordan.K.Molina <Jordan.K.Molina@co.maui.hi.us>; Rogerene Arce <Rogerene.Arce@co.maui.hi.us>; Shayne Agawa <Shayne.Agawa@co.maui.hi.us>; DOH webmaster <DOH.webmaster@doh.hawaii.gov>; WarrenMCFB@gmail.com; Yamamoto, Earl J <Earl.J.Yamamoto@hawaii.gov>; hdoa_info <hdoa.info@hawaii.gov>; Evans, Mary Alice <maryalice.evans@hawaii.gov>; hfuu@hfuu.org; james.robello@usda.gov

Cc: Ana Lillis <Ana.Lillis@co.maui.hi.us>; Hart, Jordan <jordan.hart@co.maui.hi.us>; Blystone, Kate <kate.blystone@co.maui.hi.us>

Subject: [EXTERNAL] Request for agency comment regarding proposed updates to Maui County Code Chapter 19.30A - Agricultural District

Aloha,

The Maui County Council is considering the attached Resolutions (24-171 and 24-172) referring to the Maui, Moloka'i and Lāna'i Planning Commissions two proposed bills for review and comment that affect Maui County's Agricultural Zoning District.

Specifically, attached Resolution 24-171 proposes a bill to amend Title 19 - Zoning, Maui County Code (MCC), making mobile food trucks or trailers of 1,000 square feet or less permitted accessory uses on farms in the Agriculture District. The current MCC definition of *"mobile food truck"* means *"a motorized vehicle or vehicle-towed trailer in which food is cooked or prepared to order and is served to walkup customers, provided that the vehicle or trailer is not on the same lot for more than three consecutive days, in which case the use shall be considered an eating and drinking establishment."* Attached Resolution 24-172 proposes a bill to amend Title 19 - Zoning, Maui County Code, to establish agricultural tourism as an accessory use in the Agricultural District.

Both Resolutions have been referred to the County Council's Agricultural, Diversification, Environment, and Public Transportation Committee (ADEPT) for further review and consideration before they would be sent to the Planning Commissions for review.

If you have any comments regarding the proposed bills, or even have "no comment", would you please let me know? Tentatively, these two Resolutions may be scheduled for the November, 2024 ADEPT Committee meeting. Given the tight time frame, it would be greatly appreciated if you could please respond with any comment or no comment prior to November 7, 2024.

Please let me know if you have any questions.
Mahalo,
Greg.

Gregory Pfost, AICP

Administrative Planning Officer
Department of Planning, ZAED
County of Maui
Gregory.J.Pfost@co.maui.hi.us
(808) 270-7965

Resolution

No. 24-172, CD1, FD1

REFERRING TO THE LĀNAʻI, 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 Lānaʻi 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 Lānaʻi Planning Commission, the Maui Planning Commission, and the Molokai Planning Commission.

INTRODUCED BY:

A handwritten signature in black ink, appearing to be 'Gabe Johnson', written above a horizontal line.

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 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 Molokai, 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 Molokai and Lānaʻi, 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 Molokai, such uses must 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 must have been approved by the Molokai 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 Molokai, such uses must 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, 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 Molokai, 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.

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

Agricultural tourism activities must not operate before 8:00 a.m. or after 6:00 p.m., unless otherwise noted. 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. 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. For purposes of off-street parking under chapter 19.36B, agricultural tourism is considered passive recreation.

Activities related to indigenous cultural traditions should not be misappropriated and should be practiced with respect for the host culture's intellectual property, including traditional and ancestral knowledge.

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, 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. A restaurant is not permitted.

b. Activities that support archaeological, historic, and cultural site retention, restoration, rehabilitation, or improvement under subsection 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 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 is in accordance with chapter 19.530.

[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. 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.

paf:kes:24-286a

COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that RESOLUTION NO. 24-172, CD1, FD1 was adopted by the Council of the County of Maui, State of Hawaii, on the 6th day of December, 2024, by the following vote:

MEMBERS	Alice L LEE Chair	Yuki Lei K. SUGIMURA Vice-Chair	Tom COOK	Gabriel L. JOHNSON	Natalie A. KAMA	Tamara A. M. PALTIN	Keani N. W. RAWLINS- FERNANDEZ	Shane M. SINENCI	Nohelani U'U- HODGINS
ROLL CALL	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Excused	Aye



COUNTY CLERK