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March 9, 2023, Committee meeting

OFFICE OF THE
COUNTY COUNCIL

AGRICULTURE, DIVERSIFICATION, ENVIRONMENT, AND PUBLIC
TRANSPORTATION COMMITTEE
Amendment Summary Form

Legislation: Resolution referring a proposed bill on farm dwellings to the planning commissions.

Proposer: Tamara Paltin, Councilmember. *Tamara A. M. Paltin*

Description: Replace Resolution 23-36 with the attached proposed CD1 version.

Motion: Move to substitute the attached proposed CD1 version for Resolution 23-36.

Effect: The proposed CD1 version of Resolution 23-36 incorporates the following changes:

1. Limits the combined square footage of the two allowable farm dwellings to 5,000 square feet.
2. Makes style corrections required by the Maui County Drafting Guide for County of Maui Legislation, such as setting out Section 19.30A.050, Maui County Code, in its entirety, and correcting the title.
3. Incorporates technical revisions based on the proposed changes to the attached bill.

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Resolution

No. _____

REFERRING TO THE LĀNA‘I, MAUI, AND
MOLOKAI PLANNING COMMISSIONS A
PROPOSED BILL RELATED TO FARM
DWELLINGS

WHEREAS, the Council is considering a proposed bill on farm dwellings in the Agricultural District; 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 must review proposed land use ordinances and amendments 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 SECTION 19.30A.050, MAUI COUNTY CODE, ON ACCESSORY USES IN THE AGRICULTURAL DISTRICT,” a copy of which is attached as Exhibit “1,” to the Lāna‘i Planning Commission, the Maui Planning Commission, and the 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, for review and comment;
2. That it respectfully requests the Lāna‘i, Maui, and Molokai Planning Commissions transmit their findings and recommendations to the Council as expeditiously as possible; and
3. That certified copies of this Resolution be transmitted to the Mayor, the Acting Planning Director, the Lāna‘i Planning Commission, Maui Planning Commission, and Molokai Planning Commission.

ORDINANCE NO. _____

BILL NO. _____ (2023)

A BILL FOR AN ORDINANCE AMENDING SECTION 19.30A.050, MAUI
COUNTY CODE, ON ACCESSORY USES IN THE AGRICULTURAL
DISTRICT

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

SECTION 1. Section 19.30A.050, Maui County Code, is amended to
read as follows:

“19.30A.050 Permitted uses. The following uses and
structures are permitted in the agricultural district, subject to
compliance with all other applicable laws:

A. Principal uses.

1. Agriculture.
2. Agricultural land conservation.
3. Agricultural parks, in accordance with
chapter 171, Hawai‘i Revised Statutes.
4. Animal and livestock raising, including
animal feed lots, and sales yards.
5. Private agricultural parks.
6. Minor utility 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 fifteen
acres, occupy no more than thirty-five percent of the lot,
and are compatible with existing agricultural uses;
except that land with soil classified by the land study
bureau's detailed land classification as overall (master)
productivity rating class D or E need not be compatible
with existing agricultural uses.

B. Accessory uses. Uses that are incidental or subordinate to, or customarily used in conjunction with, a permitted principal use, as follows:

1. Two farm dwellings per lot, one of which must not exceed one thousand five hundred square feet of developable area. The combined developable area of both farm dwellings must not exceed five thousand square feet.

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 pursuant to chapter 514A or chapter 514B, Hawai'i Revised Statutes:

i. The lot was created prior to November 1, 2008.

ii. The lot is comprised of five acres or less.

iii. An approved farm plan has been fully implemented and is consistent with chapter 205, Hawai'i Revised Statutes; or

c. Located in sites listed on the State of Hawai'i register of historic places or the national register of historic places.

12. Short-term rental homes permitted under chapter 19.65, except that an approved farm plan has

been fully implemented and is consistent with chapter 205, Hawai'i Revised Statutes.

13. Parks for public use, not including golf courses, and not including commercial uses, except when under the supervision of a government agency in charge of parks and playgrounds.

14. Family child care homes as defined in section 46-15.35(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. 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 2. New material is underscored. In printing this bill, the County Clerk need not include the underscoring.

SECTION 3. This Ordinance takes effect on approval.

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