
A BILL FOR AN ACT

RELATING TO AGRICULTURE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 46-4, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) This section and any ordinance, rule, or regulation
4 adopted in accordance with this section shall apply to lands not
5 contained within the forest reserve boundaries as established on
6 January 31, 1957, or as subsequently amended.

7 Zoning in all counties shall be accomplished within the
8 framework of a long-range, comprehensive general plan prepared
9 or being prepared to guide the overall future development of the
10 county. Zoning shall be one of the tools available to the
11 county to put the general plan into effect in an orderly manner.
12 Zoning in the counties of Hawaii, Maui, and Kauai means the
13 establishment of districts of such number, shape, and area, and
14 the adoption of regulations for each district to carry out the
15 purposes of this section. In establishing or regulating the
16 districts, full consideration shall be given to all available
17 data as to soil classification and physical use capabilities of
18 the land to allow and encourage the most beneficial use of the



1 land consonant with good zoning practices. The zoning power
2 granted herein shall be exercised by ordinance [~~which~~] that may
3 relate to:

- 4 (1) The areas within which agriculture, forestry,
5 industry, trade, and business may be conducted;
- 6 (2) The areas in which residential uses may be regulated
7 or prohibited;
- 8 (3) The areas bordering natural watercourses, channels,
9 and streams, in which trades or industries, filling or
10 dumping, erection of structures, and the location of
11 buildings may be prohibited or restricted;
- 12 (4) The areas in which particular uses may be subjected to
13 special restrictions;
- 14 (5) The location of buildings and structures designed for
15 specific uses and designation of uses for which
16 buildings and structures may not be used or altered;
- 17 (6) The location, height, bulk, number of stories, and
18 size of buildings and other structures;
- 19 (7) The location of roads, schools, and recreation areas;
- 20 (8) Building setback lines and future street lines;
- 21 (9) The density and distribution of population;

- 1 (10) The percentage of a lot that may be occupied, size of
- 2 yards, courts, and other open spaces;
- 3 (11) Minimum and maximum lot sizes; and
- 4 (12) Other regulations the boards or city council find
- 5 necessary and proper to permit and encourage the
- 6 orderly development of land resources within their
- 7 jurisdictions.

8 The council of any county, by ordinance, may authorize its
 9 appropriate land use decision-making authority to determine what
 10 constitutes a dwelling on lands with soil classified by the land
 11 study bureau's detailed land classification as overall (master)
 12 productivity rating class C, D, E, or U, or not designated as
 13 important agricultural lands under part III of chapter 205,
 14 within an agricultural district under the county's jurisdiction;
 15 provided that the minimum lot size for agricultural use
 16 established under section 205-5(b) shall not be diminished. The
 17 county ordinance shall include specific criteria or standards to
 18 be met if the county authorizes its land use decision-making
 19 authority to determine what constitutes a dwelling on class C,
 20 D, E, or U lands, or lands not designated as important
 21 agricultural lands under part III of chapter 205, including but

1 not limited to any dedication for agricultural use requirements
2 the county may impose.

3 The council of any county shall prescribe rules,
4 regulations, and administrative procedures and provide personnel
5 it finds necessary to enforce this section and any ordinance
6 enacted in accordance with this section. The ordinances may be
7 enforced by appropriate fines and penalties, civil or criminal,
8 or by court order at the suit of the county or the owner or
9 owners of real estate directly affected by the ordinances.

10 Any civil fine or penalty provided by ordinance under this
11 section may be imposed by the district court, or by the zoning
12 agency after an opportunity for a hearing pursuant to chapter
13 91. The proceeding shall not be a prerequisite for any
14 injunctive relief ordered by the circuit court.

15 Nothing in this section shall invalidate any zoning
16 ordinance or regulation adopted by any county or other agency of
17 government pursuant to the statutes in effect prior to July 1,
18 1957.

19 The powers granted [~~herein~~] in this section shall be
20 liberally construed in favor of the county exercising them, and
21 in such a manner as to promote the orderly development of each
22 [~~county or city and~~] county in accordance with a long-range,

1 comprehensive general plan to insure the greatest benefit for
2 the State as a whole. This section shall not be construed to
3 limit or repeal any powers of any county to achieve these ends
4 through zoning and building regulations, except insofar as
5 forest and water reserve zones are concerned and as provided in
6 subsections (c) and (d).

7 Neither this section nor any ordinance enacted pursuant to
8 this section shall prohibit the continued lawful use of any
9 building or premises for any trade, industrial, residential,
10 agricultural, or other purpose for which the building or
11 premises is used at the time this section or the ordinance takes
12 effect; provided that a zoning ordinance may provide for
13 elimination of nonconforming uses as the uses are discontinued,
14 or for the amortization or phasing out of nonconforming uses or
15 signs over a reasonable period of time in commercial,
16 industrial, resort, and apartment zoned areas only. In no event
17 shall such amortization or phasing out of nonconforming uses
18 apply to any existing building or premises used for residential
19 (single-family or duplex) or agricultural uses. Nothing in this
20 section shall affect or impair the powers and duties of the
21 director of transportation as set forth in chapter 262."



1 SECTION 2. Section 205-2, Hawaii Revised Statutes, is
2 amended by amending subsection (d) to read as follows:

3 "(d) Agricultural districts shall include activities or
4 uses as characterized by the cultivation of crops, orchards,
5 forage, and forestry; farming activities or uses related to
6 animal husbandry, aquaculture, and game and fish propagation;
7 aquaculture, which means the production of aquatic plant and
8 animal life for food and fiber within ponds and other bodies of
9 water; wind generated energy production for public, private, and
10 commercial use; bona fide agricultural services and uses that
11 support the agricultural activities of the fee or leasehold
12 owner of the property and accessory to any of the above
13 activities, whether or not conducted on the same premises as the
14 agricultural activities to which they are accessory, including
15 but not limited to farm dwellings as defined in section
16 205-4.5(a)(4), employee housing, farm buildings, mills, storage
17 facilities, processing facilities, vehicle and equipment storage
18 areas, and roadside stands for the sale of products grown on the
19 premises; wind machines and wind farms; small-scale
20 meteorological, air quality, noise, and other scientific and
21 environmental data collection and monitoring facilities
22 occupying less than one-half acre of land, provided that these

1 facilities shall not be used as or equipped for use as living
2 quarters or dwellings[+] unless otherwise authorized by a county
3 ordinance under section 46-4(a); agricultural parks; and open
4 area recreational facilities. For the purposes of this chapter,
5 golf courses and golf driving ranges are prohibited in
6 agricultural districts, except as provided in section 205-
7 4.5(d).

8 These districts may include areas [~~which~~] that are not used
9 for, or [~~which~~] that are not suited to, agricultural and
10 ancillary activities by reason of topography, soils, and other
11 related characteristics."

12 SECTION 3. Section 205-4.5, Hawaii Revised Statutes, is
13 amended as follows:

14 1. By amending subsection (a) to read:

15 "(a) Within the agricultural district, all lands with soil
16 classified by the land study bureau's detailed land
17 classification as overall (master) productivity rating class A
18 or B shall be restricted to the following permitted uses:

19 (1) Cultivation of crops, including but not limited to
20 flowers, vegetables, foliage, fruits, forage, and
21 timber;

22 (2) Game and fish propagation;

- 1 (3) Raising of livestock, including but not limited to
- 2 poultry, bees, fish, or other animal or aquatic life
- 3 that are propagated for economic or personal use;
- 4 (4) Farm dwellings, employee housing, farm buildings, or
- 5 activity or uses related to farming and animal
- 6 husbandry. Farm dwelling as used in this paragraph
- 7 means a single-family dwelling located on and used in
- 8 connection with a farm, including clusters of single-
- 9 family farm dwellings permitted within agricultural
- 10 parks developed by the State, or where agricultural
- 11 activity provides income to the family occupying the
- 12 dwelling; provided that the definition of farm
- 13 dwelling in this paragraph shall not apply to
- 14 dwellings on lands with soil classified by the land
- 15 study bureau's detailed land classification as overall
- 16 (master) productivity rating class C, D, E, or U, or
- 17 not designated as important agricultural lands under
- 18 part III of chapter 205, that are located in a county
- 19 that adopts its own dwelling definition, criteria, or
- 20 standard pursuant to section 46-4(a);
- 21 (5) Public institutions and buildings that are necessary
- 22 for agricultural practices;

- 1 (6) Public and private open area types of recreational
- 2 uses including day camps, picnic grounds, parks, and
- 3 riding stables, but not including dragstrips,
- 4 airports, drive-in theaters, golf courses, golf
- 5 driving ranges, country clubs, and overnight camps;
- 6 (7) Public, private, and quasi-public utility lines and
- 7 roadways, transformer stations, communications
- 8 equipment buildings, solid waste transfer stations,
- 9 major water storage tanks, and appurtenant small
- 10 buildings such as booster pumping stations, but not
- 11 including offices or yards for equipment, material,
- 12 vehicle storage, repair or maintenance, or treatment
- 13 plants, or corporation yards, or other like
- 14 structures;
- 15 (8) Retention, restoration, rehabilitation, or improvement
- 16 of buildings or sites of historic or scenic interest;
- 17 (9) Roadside stands for the sale of agricultural products
- 18 grown on the premises;
- 19 (10) Buildings and uses, including but not limited to
- 20 mills, storage, and processing facilities, maintenance
- 21 facilities, and vehicle and equipment storage areas
- 22 that are normally considered directly accessory to the

1 abovementioned uses and are permitted under section
2 205-2(d);

3 (11) Agricultural parks; or

4 (12) Wind energy facilities, including the appurtenances
5 associated with the production and transmission of
6 wind generated energy; provided that such facilities
7 and appurtenances are compatible with agriculture uses
8 and cause minimal adverse impact on agricultural
9 land."

10 2. By amending subsection (c) to read:

11 "(c) Within the agricultural district, all lands~~[7]~~ with
12 soil classified by the land study bureau's detailed land
13 classification as overall (master) productivity rating class C,
14 D, E, or U shall be restricted to the uses permitted for
15 agricultural districts as set forth in section 205-5(b)~~[-]~~;
16 provided that a county, pursuant to section 46-4(a), may define
17 what constitutes a dwelling by ordinance. The construction of
18 single-family dwellings on lots:

19 (1) Existing on the effective date of this Act; or

20 (2) Created within projects approved by county zoning
21 ordinance where the developer has obtained final
22 subdivision approval for at least a portion of the

1 project, commenced construction of project
2 infrastructure, and sold individual lots, prior to the
3 effective date of this Act, including all components
4 thereof;
5 shall be deemed an approved use in the agricultural district;
6 provided that all dwellings are located on soils classified as
7 C, D, E, or U."

8 SECTION 4. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 5. This Act shall take effect upon its approval.

Report Title:

Farm Dwelling; Definition

Description:

Requires counties to establish standards for landowners or lessees of state agricultural land classified as other than A, B, or designated as important agricultural lands to meet in order to build a dwelling. Grandfathers in existing dwellings and those authorized to be built prior to the effective date of the measure. (SD1)

