
A BILL FOR AN ACT

RELATING TO MINING.

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

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

3 "(d) Agricultural districts shall include:

4 (1) Activities or uses as characterized by the cultivation
5 of crops, crops for bioenergy, orchards, forage, and
6 forestry;

7 (2) Farming activities or uses related to animal
8 husbandry[7] and game and fish propagation;

9 (3) Aquaculture, which means the production of aquatic
10 plant and animal life within ponds and other bodies of
11 water;

12 (4) Wind generated energy production for public, private,
13 and commercial use;

14 (5) Biofuel production as described in section
15 205-4.5(a)(15) for public, private, and commercial
16 use;

17 (6) Bona fide agricultural services and uses that support
18 the agricultural activities of the fee or leasehold



1 owner of the property and accessory to any of the
2 above activities, regardless of whether [~~or not~~]
3 conducted on the same premises as the agricultural
4 activities to which they are accessory, including but
5 not limited to farm dwellings as defined in section
6 205-4.5(a)(4), employee housing, farm buildings,
7 mills, storage facilities, processing facilities,
8 vehicle and equipment storage areas, roadside stands
9 for the sale of products grown on the premises, and
10 plantation community subdivisions as defined in
11 section 205-4.5(a)(12);

12 (7) Wind machines and wind farms;

13 (8) Small-scale meteorological, air quality, noise, and
14 other scientific and environmental data collection and
15 monitoring facilities occupying less than one-half
16 acre of land; provided that these facilities shall not
17 be used as or equipped for use as living quarters or
18 dwellings;

19 (9) Agricultural parks;

20 (10) Agricultural tourism conducted on a working farm, or a
21 farming operation as defined in section 165-2, for the
22 enjoyment, education, or involvement of visitors;



1 provided that the agricultural tourism activity is
 2 accessory and secondary to the principal agricultural
 3 use and does not interfere with surrounding farm
 4 operations; and provided further that this paragraph
 5 shall apply only to a county that has adopted
 6 ordinances regulating agricultural tourism under
 7 section 205-5; [~~and~~]

- 8 (11) Open area recreational facilities [~~-~~]; and
- 9 (12) Mining for sand, rock, gravel, and other materials
 10 suitable for use and used in construction and
 11 activities ancillary to mining, including processing
 12 and storage; provided that the person is engaged in
 13 mining.

14 Agricultural districts shall not include golf courses and golf
 15 driving ranges, except as provided in section 205-4.5(d).

16 Agricultural districts include areas that are not used for, or
 17 that are not suited to, agricultural and ancillary activities by
 18 reason of topography, soils, and other related characteristics."

19 SECTION 2. Section 205-5, Hawaii Revised Statutes, is
 20 amended by amending subsections (a) and (b) to read as follows:

21 "(a) Except as herein provided, the powers granted to
 22 counties under section 46-4 shall govern the zoning within the



1 districts, [~~other than in~~] except for conservation districts[~~-~~]
2 and mining pursuant to section 205-2(d)(12). Conservation
3 districts shall be governed by the department of land and
4 natural resources pursuant to chapter 183C. Mining pursuant to
5 section 205-2(d)(12) shall be within the exclusive jurisdiction
6 of the land use commission.

7 (b) Within agricultural districts, uses compatible to the
8 activities described in section 205-2 as determined by the
9 commission shall be permitted; provided that accessory
10 agricultural uses and services described in sections 205-2 and
11 205-4.5 may be further defined by each county by zoning
12 ordinance[~~-~~], except for mining pursuant to section
13 205-2(d)(12). Each county shall adopt ordinances setting forth
14 procedures and requirements, including provisions for
15 enforcement, penalties, and administrative oversight, for the
16 review and permitting of agricultural tourism uses and
17 activities as an accessory use on a working farm, or farming
18 operation as defined in section 165-2; provided that
19 agricultural tourism activities shall not be permissible in the
20 absence of a bona fide farming operation. Ordinances shall
21 include but not be limited to:



- 1 (1) Requirements for access to a farm, including road
- 2 width, road surface, and parking;
- 3 (2) Requirements and restrictions for accessory facilities
- 4 connected with the farming operation, including gift
- 5 shops and restaurants; provided that overnight
- 6 accommodations shall not be permitted;
- 7 (3) Activities that may be offered by the farming
- 8 operation for visitors;
- 9 (4) Days and hours of operation; and
- 10 (5) Automatic termination of the accessory use upon the
- 11 cessation of the farming operation.

12 Each county may require an environmental assessment under
13 chapter 343 as a condition to any agricultural tourism use and
14 activity. Other uses may be allowed by special permits issued
15 pursuant to this chapter. The minimum lot size in agricultural
16 districts shall be determined by each county by zoning
17 ordinance, subdivision ordinance, or other lawful means;
18 provided that the minimum lot size for any agricultural use
19 shall not be less than one acre, except as provided herein. If
20 the county finds that unreasonable economic hardship to the
21 owner or lessee of land cannot otherwise be prevented or where
22 land utilization is improved, the county may allow lot sizes of



1 less than the minimum lot size as specified by law for lots
 2 created by a consolidation of existing lots within an
 3 agricultural district and the resubdivision thereof; provided
 4 that the consolidation and resubdivision do not result in an
 5 increase in the number of lots over the number existing prior to
 6 consolidation; and provided further that in no event shall a lot
 7 [~~which~~] that is equal to or exceeds the minimum lot size of one
 8 acre be less than that minimum after the consolidation and
 9 resubdivision action. The county may also allow lot sizes of
 10 less than the minimum lot size as specified by law for lots
 11 created or used for plantation community subdivisions as defined
 12 in section 205-4.5(a)(12), for public, private, and quasi-public
 13 utility purposes, and for lots resulting from the subdivision of
 14 abandoned roadways and railroad easements."

15 SECTION 3. Statutory material to be repealed is bracketed
 16 and stricken. New statutory material is underscored.

17 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:

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Report Title:

Land Use; Agricultural District; Mining

Description:

Permits mining for sand, rock, gravel, and other materials suitable for use and used in construction and activities ancillary to mining, including processing and storage, within the agricultural districts; provided that the person is engaged in mining.

