

JAN 28 2009

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# A BILL FOR AN ACT

RELATING TO AGRICULTURE.

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

1           SECTION 1. Section 205-4.5, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

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

7           (1) Cultivation of crops, including crops for bioenergy,  
8           flowers, vegetables, foliage, fruits, forage, and  
9           timber;

10          (2) Game and fish propagation;

11          (3) Raising of livestock, including poultry, bees, fish,  
12          or other animal or aquatic life that are propagated  
13          for economic or personal use;

14          (4) Farm dwellings, employee housing, farm buildings, or  
15          activities or uses related to farming and animal

16          husbandry. "Farm dwelling", as used in this

17          paragraph, means a single-family dwelling located on

18          and used in connection with a farm, including clusters



1 of single-family farm dwellings permitted within  
2 agricultural parks developed by the State, or where  
3 agricultural activity provides income to the family  
4 occupying the dwelling;

5 (5) Public institutions, educational facilities, and  
6 buildings that are [~~necessary for agricultural~~  
7 ~~practices;~~] appurtenances of operations for the  
8 cultivation of crops, game and fish for propagation,  
9 and raising livestock;

10 (6) Public and private open area types of recreational  
11 uses, including day camps, picnic grounds, parks, and  
12 riding stables, but not including dragstrips,  
13 airports, drive-in theaters, golf courses, golf  
14 driving ranges, country clubs, and overnight camps;

15 (7) Public, private, and quasi-public utility lines and  
16 roadways, transformer stations, communications  
17 equipment buildings, solid waste transfer stations,  
18 major water storage tanks, and appurtenant small  
19 buildings such as booster pumping stations, but not  
20 including offices or yards for equipment, material,  
21 vehicle storage, repair or maintenance, treatment



- 1 plants, corporation yards, or other similar
- 2 structures;
- 3 (8) Retention, restoration, rehabilitation, or improvement
- 4 of buildings or sites of historic or scenic interest;
- 5 (9) Roadside stands for the sale of agricultural products
- 6 grown on the premises;
- 7 (10) Buildings and uses, including mills, storage, and
- 8 processing facilities, maintenance facilities, and
- 9 vehicle and equipment storage areas that are normally
- 10 considered directly accessory to the above-mentioned
- 11 uses and are permitted under section 205-2(d);
- 12 (11) Agricultural parks;
- 13 (12) Plantation community subdivisions, which as used in
- 14 this chapter means an established subdivision or
- 15 cluster of employee housing, community buildings, and
- 16 agricultural support buildings on land currently or
- 17 formerly owned, leased, or operated by a sugar or
- 18 pineapple plantation; provided that the existing
- 19 structures may be used or rehabilitated for use, and
- 20 new employee housing and agricultural support
- 21 buildings may be allowed on land within the
- 22 subdivision as follows:



1 (A) The employee housing is occupied by employees or  
2 former employees of the plantation who have a  
3 property interest in the land;

4 (B) The employee housing units not owned by their  
5 occupants shall be rented or leased at affordable  
6 rates for agricultural workers; or

7 (C) The agricultural support buildings shall be  
8 rented or leased to agricultural business  
9 operators or agricultural support services;

10 (13) Agricultural tourism conducted on a working farm, or a  
11 farming operation as defined in section 165-2, for the  
12 enjoyment, education, or involvement of visitors;  
13 provided that the agricultural tourism activity is  
14 accessory and secondary to the principal agricultural  
15 use and does not interfere with surrounding farm  
16 operations; and provided further that this paragraph  
17 shall apply only to a county that has adopted  
18 ordinances regulating agricultural tourism under  
19 section 205-5;

20 (14) Wind energy facilities, including the appurtenances  
21 associated with the production and transmission of  
22 wind generated energy; provided that the wind energy



1 facilities and appurtenances are compatible with  
2 agriculture uses and cause minimal adverse impact on  
3 agricultural land;

- 4 (15) Biofuel processing facilities, including the  
5 appurtenances associated with the production and  
6 refining of biofuels that is normally considered  
7 directly accessory and secondary to the growing of the  
8 energy feedstock; provided that biofuels processing  
9 facilities and appurtenances do not adversely impact  
10 agricultural land and other agricultural uses in the  
11 vicinity.

12 For the purposes of this paragraph:

13 "Appurtenances" means operational infrastructure  
14 of the appropriate type and scale for economic  
15 commercial storage and distribution, and other similar  
16 handling of feedstock, fuels, and other products of  
17 biofuels processing facilities.

18 "Biofuel processing facility" means a facility  
19 that produces liquid or gaseous fuels from organic  
20 sources such as biomass crops, agricultural residues,  
21 and oil crops, including palm, canola, soybean, and  
22 waste cooking oils; grease; food wastes; and animal



1 residues and wastes that can be used to generate  
2 energy;

3 (16) Agricultural-energy facilities, including  
4 appurtenances necessary for an agricultural-energy  
5 enterprise; provided that the primary activity of the  
6 agricultural-energy enterprise is agricultural  
7 activity. To be considered the primary activity of an  
8 agricultural-energy enterprise, the total acreage  
9 devoted to agricultural activity shall be not less  
10 than ninety per cent of the total acreage of the  
11 agricultural-energy enterprise. The agricultural-  
12 energy facility shall be limited to lands owned,  
13 leased, licensed, or operated by the entity conducting  
14 the agricultural activity.

15 As used in this paragraph:

16 "Agricultural activity" means any activity  
17 described in paragraphs (1) to (3) of this subsection.

18 "Agricultural-energy enterprise" means an  
19 enterprise that integrally incorporates an  
20 agricultural activity with an agricultural-energy  
21 facility.



1 "Agricultural-energy facility" means a facility  
2 that generates, stores, or distributes renewable  
3 energy as defined in section 269-91 or renewable fuel  
4 including electrical or thermal energy or liquid or  
5 gaseous fuels from products of agricultural activities  
6 from agricultural lands located in the State.

7 "Appurtenances" means operational infrastructure  
8 of the appropriate type and scale for the economic  
9 commercial generation, storage, distribution, and  
10 other similar handling of energy, including equipment,  
11 feedstock, fuels, and other products of agricultural-  
12 energy facilities; or

13 (17) Construction and operation of wireless communication  
14 antennas; provided that, for the purposes of this  
15 paragraph, "wireless communication antenna" means  
16 communications equipment that is either freestanding  
17 or placed upon or attached to an already existing  
18 structure and that transmits and receives  
19 electromagnetic radio signals used in the provision of  
20 all types of wireless communications services;  
21 provided further that nothing in this paragraph shall  
22 be construed to permit the construction of any new



1 structure that is not deemed a permitted use under  
2 this subsection."

3 SECTION 2. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 3. This Act shall take effect upon its approval.

6

INTRODUCED BY:

*[Handwritten Signature]*





**Report Title:**

Agricultural District; Permitted Uses

**Description:**

Amends the permitted uses of land within the agricultural district with soil classifications of A or B to include educational facilities and agricultural appurtenances.

