
A BILL FOR AN ACT

RELATING TO AGRICULTURAL BUILDING PERMITS.

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

1 SECTION 1. The legislature finds that compliance with
2 existing building codes and permitting processes negatively
3 impacts the State's commercial agriculture and aquaculture
4 industries by adding significant time and costs to farming and
5 ranching enterprises for such fundamental activities as
6 constructing or installing greenhouses, shade houses, storage
7 containers, and many other agricultural and aquacultural
8 buildings and structures, which, by their nature or location,
9 pose little risk to life or property. In contrast to building
10 codes in many other states, county building codes in Hawaii
11 generally do not distinguish between low-risk agricultural
12 structures and residential or commercial buildings. Ultimately,
13 this results in excessive costs for code compliance. Act 114,
14 Session Laws of Hawaii 2012, may help to reduce the cost and
15 time spent applying for building permits for specified
16 nonresidential agricultural and aquacultural buildings and
17 structures and their appurtenances, but Act 114 does not offer
18 relief from county building code requirements.



1 The purpose of this Act is to encourage and support
2 diversified agriculture and agricultural self-sufficiency in the
3 State by providing, under certain circumstances, an exemption
4 from building code and permit requirements for nonresidential
5 buildings or structures on commercial farms and ranches located
6 outside the urban district.

7 SECTION 2. Section 46-88, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "~~§~~46-88~~§~~ **Agricultural and aquacultural buildings and**
10 **structures; no building permit required.** (a) ~~Each~~
11 Notwithstanding any law to the contrary, each county shall
12 establish an agricultural buildings and structures exemption
13 list of buildings and structures that are exempt from existing
14 building permit requirements. The list shall be established by
15 each county no later than January 1, 2013. Agricultural
16 buildings, structures, or appurtenances thereto, which are not
17 used as dwelling or lodging units, may be exempted from existing
18 building permit and building code requirements where they are no
19 more than 1,000 square feet in floor area~~+~~ or, if greater than
20 1,000 square feet in floor area and compliant with building code
21 requirements or prescriptive construction standards, may be



1 exempted from building permit requirements pursuant to
2 subsection (d); provided that [the]:

3 (1) The aggregate floor area of the exempted agricultural
4 building [~~, structure, or appurtenance thereto~~] shall
5 not exceed:

6 (A) 5,000 square feet per zoning lot for lots of two
7 acres or less;

8 (B) 8,000 square feet per zoning lot for lots greater
9 than two acres but not more than five acres; and

10 (C) Ten per cent of the acreage per zoning lot for
11 lots greater than five acres; and [the]

12 (2) The minimum horizontal separation between each
13 agricultural building, structure, or appurtenance
14 thereto is fifteen feet [~~, and the];~~

15 (3) The agricultural buildings, structures, or
16 appurtenances thereto are located on a commercial farm
17 or ranch and are used for general agricultural or
18 aquacultural operations, or for purposes incidental to
19 such operations; [~~provided further that:~~

20 ~~(1)]~~ (4) The agricultural building, structure, or
21 appurtenance thereto is constructed or installed on
22 property that is used primarily for agricultural or



1 aquacultural operations, and is two or more contiguous
2 acres in area or one or more contiguous acres in area
3 if located in a nonresidential agricultural or
4 aquacultural park;

5 [~~2~~] (5) Upon completion of construction or installation,
6 the owner or occupier shall provide written notice to
7 the appropriate county fire department and county
8 building permitting agency of the size, type, and
9 locations of the building, structure, or appurtenance
10 thereto. Such written notification shall be provided
11 to the county agencies within thirty days of the
12 completion of the building, structure, or appurtenance
13 thereto. Failure to provide such written notice may
14 void the building permit exemption, which voidance for
15 such failure is subject to the sole discretion of the
16 appropriate county building permitting agency;

17 [~~3~~] (6) No electrical power and no plumbing systems shall
18 be connected to the building or structure without
19 first obtaining the appropriate county electrical or
20 plumbing permit, and all such installations shall be
21 installed under the supervision of a licensed
22 electrician or plumber, as appropriate, and inspected



1 and approved by an appropriate county or licensed
2 inspector~~[, and]~~ or, if a county building agency is
3 unable to issue an electrical permit because the
4 building or structure is permit-exempt, an electrical
5 permit shall be issued for an electrical connection to
6 a meter on a pole beyond the permit-exempt structure
7 in accordance with the installation, inspection, and
8 approval requirements in this paragraph;

9 ~~[(4)]~~ (7) Disposal of wastewater from any building or
10 structure constructed or installed pursuant to this
11 section shall comply with chapter 342D~~[-]~~; and

12 (8) Permit-exempt structures shall be exempt from any
13 certificate of occupancy requirements.

14 (b) For purposes of subsection (a), the following
15 buildings ~~[and]~~, structures, and appurtenances thereto shall be
16 included in each county's agricultural ~~[building]~~ buildings and
17 structures exemption list~~[-]~~ and shall be exempt from county
18 building permit and code requirements:

19 (1) Nonresidential manufactured pre-engineered commercial
20 buildings and structures consisting of no more than
21 1,000 square feet ~~[that have no electrical power and~~
22 ~~have no potable water, sewage, or other plumbing~~



1 ~~related services, or have such electrical or plumbing~~
2 ~~related services installed and inspected in accordance~~
3 ~~with subsection (a) (3) and (4)] ;~~

4 (2) Single stand alone recycled ocean shipping or cargo
5 containers that are used as nonresidential commercial
6 buildings;

7 (3) Notwithstanding the 1,000 square foot floor area
8 restriction in subsection (a), agricultural shade
9 cloth structures, cold frames, or greenhouses not
10 exceeding 20,000 square feet in area per structure;
11 provided that where multiple structures are erected,
12 the minimum horizontal separation between each shade
13 cloth structure, cold frame, or greenhouse is fifteen
14 feet;

15 (4) Aquacultural or aquaponics structures, including
16 above-ground water storage or production tanks,
17 troughs, and raceways with a maximum height of six
18 feet above grade, and in-ground ponds and raceways,
19 and piping systems for aeration, carbon dioxide, or
20 fertilizer or crop protection chemical supplies within
21 agricultural or aquacultural production facilities;



- 1 (5) Livestock watering tanks, water piping and plumbing
- 2 not connected to a source of potable water, or
- 3 separated by an air gap from such a source;
- 4 (6) Non-masonry fences not exceeding ten feet in height
- 5 and masonry fences not exceeding six feet in height;
- 6 (7) One-story masonry or wood-framed buildings or
- 7 structures with a structural span of less than twenty-
- 8 five feet and a total square footage of no more than
- 9 1,000 square feet, including farm buildings used as:
- 10 (A) Barns;
- 11 (B) Greenhouses;
- 12 (C) Farm production buildings including aquaculture
- 13 hatcheries and plant nurseries;
- 14 (D) Storage buildings for farm equipment or plant or
- 15 animal supplies or feed; or
- 16 (E) Storage or processing buildings for crops;
- 17 provided that the height of any stored items
- 18 shall not collectively exceed twelve feet in
- 19 height and the storage of any hazardous materials
- 20 shall comply with any and all applicable
- 21 statutes, regulations, and codes;



1 (8) Raised beds containing soil, gravel, cinders, or other
2 growing media or substrates with wood, metal, or
3 masonry walls or supports with a maximum height of
4 four feet; and

5 (9) Horticultural tables or benches no more than four feet
6 in height supporting potted plants or other crops;
7 provided that the buildings, structures, and appurtenances
8 thereto comply with all applicable state and county [codes,
9 ~~including but not limited to applicable building, fire, health,~~
10 ~~safety, and~~] zoning codes and are properly anchored.

11 (c) [~~In the event that~~] If a county fails to establish the
12 agricultural buildings and structures exemption list within the
13 time period as required under subsection (a), the buildings and
14 structures specified in subsection (b) shall constitute that
15 county's agricultural [~~building~~] buildings and structures
16 exemption list.

17 (d) For purposes of subsection (a), and notwithstanding
18 the 1,000 square foot floor area restriction in subsection (a),
19 the following buildings, structures, and appurtenances thereto
20 shall be exempt from building permit requirements when compliant
21 with relevant building codes or county, national, or
22 international prescriptive construction standards:



- 1 (1) Nonresidential manufactured pre-engineered and county
2 pre-approved commercial buildings and structures
3 consisting of a total square footage greater than
4 1,000 square feet but no more than 8,000 square feet;
5 and
- 6 (2) One-story wood-framed or masonry buildings or
7 structures with a structural span of less than twenty-
8 five feet and a total square footage greater than
9 1,000 square feet but no more than 8,000 square feet
10 constructed in accordance with county, national, or
11 international prescriptive construction standards,
12 including buildings used as:
- 13 (A) Barns;
14 (B) Greenhouses;
15 (C) Farm production buildings, including aquaculture
16 hatcheries and plant nurseries;
17 (D) Storage buildings for farm equipment, plant or
18 animal supplies, or feed; or
19 (E) Storage or processing buildings for crops;
20 provided that the height of any stored items
21 shall not collectively exceed twelve feet in
22 height and the storage of any hazardous materials



1 shall comply with all applicable statutes,
2 regulations, and codes.

3 ~~(d)~~ (e) As used in this section:

4 "Agricultural building or aquacultural building" means a
5 nonresidential building or structure located on a commercial
6 farm or ranch constructed or installed to house farm or ranch
7 implements, agricultural or aquacultural feeds or supplies,
8 livestock, poultry, or other agricultural or aquacultural
9 products, used in or necessary for the operation of the farm or
10 ranch, or for the processing and selling of farm or ranch
11 products.

12 "Agricultural operation" means the planting, cultivating,
13 harvesting, processing, or storage of crops, including those
14 planted, cultivated, harvested, and processed for food,
15 ornamental, grazing, feed, or forestry purposes, as well as the
16 feeding, breeding, management, and sale of animals including
17 livestock, poultry, honeybees, and their products.

18 "Appurtenance" means an object or device in, on, or
19 accessory to a building or structure, and which enhances or is
20 essential to the usefulness of the building or structure,
21 including but not limited to work benches, horticultural and
22 floricultural growing benches, aquacultural, aquaponic, and



1 hydroponic tanks, raceways, troughs, growbeds, and filterbeds,
2 when situated within a structure.

3 "Aquacultural operation" means the propagation,
4 cultivation, farming, harvesting, processing, and storage of
5 aquatic plants and animals in controlled or selected
6 environments for research, commercial, or stocking purposes and
7 includes aquaponics or any growing of plants or animals in or
8 with aquaculture effluents.

9 "Manufactured pre-engineered commercial building or
10 structure" means a building or structure whose specifications
11 comply with appropriate county codes, and have been pre-approved
12 by a county or building official.

13 "Nonresidential building or structure" means a building or
14 structure that is used only for agricultural or aquacultural
15 operations, including an agricultural building or aquacultural
16 building, and is not intended for use as, or used as, a
17 dwelling.

18 [~~e~~] (f) This section shall not apply to buildings or
19 structures otherwise exempted from building permitting or
20 building code requirements by applicable county ordinance.

21 [~~f~~] (g) This section shall not be construed to supersede
22 public or private lease conditions.



1 [~~g~~] (h) This section shall not apply to the construction
2 or installation of any building or structure on land in an urban
3 district."

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

6 SECTION 4. This Act shall take effect on July 1, 2013.

7



Report Title:

Agricultural Building Permits; Exemptions

Description:

Provides, under certain circumstances, an exemption from building code and permit requirements for nonresidential buildings or structures on commercial farms and ranches located outside the urban district. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

