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## A BILL FOR AN ACT

RELATING TO SUSTAINABLE LIVING.

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

1           SECTION 1. The legislature finds that populations are  
2 increasing while resources are decreasing. The result is a need  
3 for more sustainable and environmentally appropriate living.  
4 Sustainable and environmentally appropriate living is presently  
5 inhibited due to zoning regulations that control and regulate  
6 conventional development. Some innovations for more sustainable  
7 development can only be researched and tested from outside the  
8 confines of the State's existing mechanisms.

9           In 2007, New Mexico's governor signed into law the  
10 Sustainable Development Test Site Act, which allows counties  
11 throughout that state to define a new category of rules that  
12 apply to approved sustainable development sites. Taos county,  
13 for example, is issuing permits for sites to conduct sustainable  
14 development research that would otherwise be restricted due to  
15 ordinances that apply to conventional development.

16           Similarly, this Act allows and encourages privately or  
17 otherwise funded sustainable projects within a county to



1 research new low-impact ways of living and growing food without  
2 the limitations imposed by traditional codes and ordinances.  
3 This Act allows permitted designated sustainable living research  
4 sites to receive exemptions from certain codes for experimental  
5 purposes. The sites are intended to be located within  
6 agricultural and rural districts in certain counties. Under  
7 this Act, applicants for permits must provide detailed  
8 descriptions of the research to be conducted at the sites as  
9 well as annual status reports of research activities. This Act  
10 enables the construction of what are often referred to as  
11 "ecovillages," which are innovative and rapidly developing  
12 nationwide and internationally, but which are not permitted  
13 under Hawaii's current laws.

14 The short-term goal of sustainable research sites is to  
15 develop sustainable resources and practices such as community  
16 resource sharing, natural or recycled building materials,  
17 thermal and solar heating or cooling systems, renewable power  
18 generation, water harvesting, contained sewage treatment  
19 systems, and food production. The long-term goal of these sites  
20 is to develop research that will contribute to emergency  
21 preparedness development in Hawaii and to further the intentions



1 of the Aloha+ Challenge, which identifies six goals to be  
2 achieved by 2030:

3 (1) Clean energy: Seventy per cent clean energy,  
4 including forty per cent from renewables and thirty  
5 per cent from efficiency;

6 (2) Local food: At least double local food production so  
7 that twenty to thirty per cent of food consumed is  
8 grown locally;

9 (3) Natural resource management: Reverse the trend of  
10 natural resource loss mauka to makai by increasing  
11 freshwater security, watershed protection, community-  
12 based marine management, invasive species prevention  
13 and control, and restoration of native species;

14 (4) Waste reduction: Reduce the solid waste stream prior  
15 to disposal by seventy per cent through source  
16 reduction, recycling, bioconversion, and landfill  
17 diversion methods;

18 (5) Smart sustainable communities: Increase livability  
19 and resilience in the built environment through  
20 planning and implementation at the state and county  
21 levels; and





1 systems in accordance with county and state water law  
2 and the rules and policies of the county and state  
3 engineers;

4 (3) The provision of sewage treatment needs with minimal  
5 discharge;

6 (4) The reuse of materials discarded by modern society;

7 (5) The development of organic foods;

8 (6) The development of renewable fuel; and

9 (7) The development and testing of shared living  
10 situations.

11 "Sustainable living research" means activities conducted at  
12 a sustainable living research site that test ideas, concepts, or  
13 inventions designed to promote sustainable living.

14 "Sustainable living research permit" means a permit issued  
15 by the planning department that designates an area as a  
16 sustainable living research site and specifies:

17 (1) The sustainable living research that can be conducted  
18 within the site by the permittee; and

19 (2) The county codes, ordinances, rules, or permits that  
20 are not applicable to the permittee and the research.



1 "Sustainable living research site" means an area that is  
2 subject to a sustainable living research site permit issued by  
3 the planning department.

4 § -3 **Application for sustainable living research permit;**  
5 **evaluation.** (a) A person desiring a sustainable living  
6 research permit shall submit an application to the planning  
7 department for the county in which the proposed sustainable  
8 living research site is located. The application shall include:

- 9 (1) A detailed description of the sustainable living  
10 research that will be conducted on the sustainable  
11 living research site, including an explanation of the  
12 ideas, concepts, and inventions that will be tested;
- 13 (2) A site plan of the sustainable living research site;
- 14 (3) The number of inhabitants and employees whom are  
15 expected to occupy the sustainable living research  
16 site;
- 17 (4) An assessment of the county codes, ordinances, rules,  
18 or permits relating to construction or building  
19 requirements, occupancy, zoning, or subdivisions that  
20 are not practicable for the specific sustainable  
21 living research site;



- 1           (5) An application fee, if any, set by the planning  
2           department;
- 3           (6) Other information as may be required by conditions  
4           adopted pursuant to section -7, rules adopted by  
5           the planning department or planning commission, or  
6           county ordinance; and
- 7           (7) An affidavit indemnifying the county and State from  
8           liabilities relating to the building exemptions.

9 An application shall be complete upon submission of all of the  
10 above items to the planning department.

11           (b) Within ten days of receipt of a complete application,  
12 the planning department shall forward a copy of the application  
13 to the department of health for review. Within thirty days  
14 after its receipt of the application, the department of health  
15 shall determine whether the proposed sustainable living research  
16 will have a detrimental environmental impact on the proposed  
17 sustainable living research site or the surrounding area.

18           § -4 **Application review; decision; permit.** (a)  
19 Following the application review conducted pursuant to section  
20 -3(b), the planning department shall issue its decision in



1 writing. The planning department shall issue a sustainable  
2 living research permit if:

3 (1) The department of health has determined that the  
4 proposed sustainable living research will not have a  
5 detrimental environmental impact on the proposed  
6 sustainable living research site or the surrounding  
7 area; and

8 (2) The proposed sustainable living research at the site  
9 may be beneficial to the development of sustainable  
10 living.

11 (b) A sustainable living research permit shall include:

12 (1) The specific sustainable living research that may be  
13 conducted at the sustainable living research site;

14 (2) The maximum number of individuals that may inhabit the  
15 sustainable living research site;

16 (3) The specific county codes, ordinances, rules, and  
17 permits relating to construction or building  
18 requirements, occupancy, zoning, or subdivisions that  
19 the permittee and sustainable living research  
20 conducted are excepted from pursuant to the permit;

21 and





1           (4) Other restrictions on the sustainable living research  
2           site and the permittee's activities as required by  
3           rules adopted pursuant to section     -7 and chapter  
4           91, if any.

5           (c) The sustainable living research permit shall be filed  
6 and recorded in the office of the county clerk. The permit  
7 shall expire at the earlier of:

- 8           (1) Ten years after the date of issuance; or
- 9           (2) The completion of the sustainable living research.

10          (d) The planning department shall approve or deny an  
11 application for a sustainable living research permit within  
12 ninety days of its receipt of a complete application. This  
13 deadline may be extended upon mutual agreement of the applicant  
14 and the planning department.

15          (e) If the planning department denies an application for a  
16 sustainable living research permit or fails to rule on an  
17 application within ninety days after the complete application is  
18 submitted, the applicant may appeal the planning department's  
19 decision or failure to rule to the appropriate planning  
20 commission within thirty days.



1           §   -5   **Sustainable living research site; requirements.**   A

2   sustainable living research site shall be:

- 3           (1)   Greater than one acre in size;
- 4           (2)   Built with thirty-foot setbacks from adjacent
- 5                   properties; and
- 6           (3)   Located within a county with a population of less than
- 7                   five hundred thousand.

8           §   -6   **Sustainable living research permitted; enforcement.**

9   (a)   The permittee, when conducting sustainable living research  
10 that is specified in the sustainable living research permit,  
11 shall comply with all applicable laws and rules except those  
12 county codes, ordinances, rules, or permits specified in the  
13 permit as inapplicable to the permittee and the research.

14       (b)   Nothing in this chapter or the sustainable living  
15 research permit shall be deemed to allow the permittee to  
16 appropriate or otherwise use underground or surface water  
17 without first obtaining a water rights permit or approval if  
18 otherwise required pursuant to chapter 174C. New appropriations  
19 of water and water rights transfers shall in no event be  
20 exempted from applicable state laws and rules relating to water  
21 resources.



1 (c) Nothing in this chapter or the sustainable living  
2 research permit shall be deemed to exempt the permittee from  
3 preparing an environmental assessment or environmental impact  
4 statement where such a statement or assessment is otherwise  
5 required by law.

6 (d) Relevant employees and agents of the State or the  
7 county, at all reasonable times and with reasonable notice, may  
8 enter the sustainable living research site for the purpose of  
9 inspecting the site and activities conducted on the site to  
10 ensure that conditions specified in the sustainable living  
11 research permit are being met.

12 (e) The permittee shall annually submit a report to the  
13 planning department describing the sustainable living research  
14 and activities conducted during the preceding twelve months and  
15 summarizing the research findings. All information contained in  
16 the report and all other information learned from activities  
17 pursuant to the sustainable living research permit shall be made  
18 available to the public.

19 (f) The planning commission may revoke the sustainable  
20 living research permit if it finds, after a public hearing, that  
21 the permittee has substantially violated a sustainable living



1 research permit provision, this chapter, or an applicable rule  
2 adopted pursuant to this chapter or chapter 91, and has failed  
3 to correct the violation within thirty days of notification of  
4 the violation.

5 (g) A permittee may apply to have a sustainable living  
6 research permit amended by submitting a new application pursuant  
7 to section -3. If the planning department determines that  
8 the proposed amendment will substantially alter the sustainable  
9 living research or other activities conducted at the sustainable  
10 living research site and does not approve those changes, the  
11 permittee may appeal that decision to the appropriate planning  
12 commission within thirty days.

13 § -7 **Adoption of conditions.** The planning department  
14 may include, as part of the permit issued pursuant to this  
15 chapter, special rules and conditions that are consistent with  
16 the purpose of this chapter and other applicable laws and  
17 policies. If the applicant is not in agreement with any special  
18 rules and conditions imposed by the planning department, the  
19 applicant may appeal to the appropriate planning commission.

20 § -8 **Rules.** No later than October 1, 2017, the planning  
21 department of each county with a population of less than five



1 hundred thousand shall adopt rules pursuant to chapter 91 to  
2 implement the requirements of this chapter."

3 SECTION 3. Section 205-2, Hawaii Revised Statutes, is  
4 amended by amending subsections (c) and (d) to read as follows:

5 "(c) Rural districts shall include activities or uses as  
6 characterized by low density residential lots of not more than  
7 one dwelling house per one-half acre, except as provided by  
8 county ordinance pursuant to section 46-4(c), in areas where  
9 "city-like" concentration of people, structures, streets, and  
10 urban level of services are absent, and where small farms are  
11 intermixed with low density residential lots except that within  
12 a subdivision, as defined in section 484-1, the commission for  
13 good cause may allow one lot of less than one-half acre, but not  
14 less than eighteen thousand five hundred square feet, or an  
15 equivalent residential density, within a rural subdivision and  
16 permit the construction of one dwelling on such lot; provided  
17 that all other dwellings in the subdivision shall have a minimum  
18 lot size of one-half acre or 21,780 square feet. Such petition  
19 for variance may be processed under the special permit  
20 procedure. These districts may include contiguous areas which  
21 are not suited to low density residential lots or small farms by



1 reason of topography, soils, and other related characteristics.  
2 Rural districts shall also include golf courses, golf driving  
3 ranges, and golf-related facilities.

4 In addition to the uses listed in this subsection, rural  
5 districts shall include [~~geothermal~~] as permissible uses:

6 (1) Geothermal resources exploration and geothermal  
7 resources development, as defined under section  
8 182-1 [~~as permissible uses.~~]; and

9 (2) Sustainable living research sites pursuant to chapter  
10 \_\_\_\_\_.

11 (d) Agricultural districts shall include[+] as permissible  
12 uses:

13 (1) Activities or uses as characterized by the cultivation  
14 of crops, crops for bioenergy, orchards, forage, and  
15 forestry;

16 (2) Farming activities or uses related to animal husbandry  
17 and game and fish propagation;

18 (3) Aquaculture, which means the production of aquatic  
19 plant and animal life within ponds and other bodies of  
20 water;



- 1           (4) Wind generated energy production for public, private,  
2                   and commercial use;
- 3           (5) Biofuel production, as described in section  
4                   205-4.5(a)(16), for public, private, and commercial  
5                   use;
- 6           (6) Solar energy facilities; provided that:
  - 7                   (A) This paragraph shall apply only to land with soil  
8                           classified by the land study bureau's detailed  
9                           land classification as overall (master)  
10                           productivity rating class B, C, D, or E; and
  - 11                   (B) Solar energy facilities placed within land with  
12                           soil classified as overall productivity rating  
13                           class B or C shall not occupy more than ten per  
14                           cent of the acreage of the parcel, or twenty  
15                           acres of land, whichever is lesser, unless a  
16                           special use permit is granted pursuant to section  
17                           205-6;
- 18           (7) Bona fide agricultural services and uses that support  
19                   the agricultural activities of the fee or leasehold  
20                   owner of the property and accessory to any of the  
21                   above activities, regardless of whether conducted on



- 1 the same premises as the agricultural activities to  
2 which they are accessory, including farm dwellings as  
3 defined in section 205-4.5(a)(4), employee housing,  
4 farm buildings, mills, storage facilities, processing  
5 facilities, photovoltaic, biogas, and other small-  
6 scale renewable energy systems producing energy solely  
7 for use in the agricultural activities of the fee or  
8 leasehold owner of the property, agricultural-energy  
9 facilities as defined in section 205-4.5(a)(17),  
10 vehicle and equipment storage areas, and plantation  
11 community subdivisions as defined in section  
12 205-4.5(a)(12);
- 13 (8) Wind machines and wind farms;
- 14 (9) Small-scale meteorological, air quality, noise, and  
15 other scientific and environmental data collection and  
16 monitoring facilities occupying less than one-half  
17 acre of land; provided that these facilities shall not  
18 be used as or equipped for use as living quarters or  
19 dwellings;
- 20 (10) Agricultural parks;





- 1           (11) Agricultural tourism conducted on a working farm, or a  
2           farming operation as defined in section 165-2, for the  
3           enjoyment, education, or involvement of visitors;  
4           provided that the agricultural tourism activity is  
5           accessory and secondary to the principal agricultural  
6           use and does not interfere with surrounding farm  
7           operations; and provided further that this paragraph  
8           shall apply only to a county that has adopted  
9           ordinances regulating agricultural tourism under  
10          section 205-5;
- 11          (12) Agricultural tourism activities, including overnight  
12          accommodations of twenty-one days or less, for any one  
13          stay within a county; provided that this paragraph  
14          shall apply only to a county that includes at least  
15          three islands and has adopted ordinances regulating  
16          agricultural tourism activities pursuant to section  
17          205-5; provided further that the agricultural tourism  
18          activities coexist with a bona fide agricultural  
19          activity. For the purposes of this paragraph, "bona  
20          fide agricultural activity" means a farming operation  
21          as defined in section 165-2;



- 1       (13)   Open area recreational facilities;
- 2       (14)   Geothermal resources exploration and geothermal
- 3               resources development, as defined under section 182-1;
- 4       (15)   Agricultural-based commercial operations, including:
- 5               (A)   A roadside stand that is not an enclosed
- 6                       structure, owned and operated by a producer for
- 7                       the display and sale of agricultural products
- 8                       grown in Hawaii and value-added products that
- 9                       were produced using agricultural products grown
- 10                      in Hawaii;
- 11              (B)   Retail activities in an enclosed structure owned
- 12                      and operated by a producer for the display and
- 13                      sale of agricultural products grown in Hawaii,
- 14                      value-added products that were produced using
- 15                      agricultural products grown in Hawaii, logo items
- 16                      related to the producer's agricultural
- 17                      operations, and other food items; and
- 18              (C)   A retail food establishment owned and operated by
- 19                      a producer and permitted under title 11, chapter
- 20                      12 of the rules of the department of health that
- 21                      prepares and serves food at retail using products



1                   grown in Hawaii and value-added products that  
 2                   were produced using agricultural products grown  
 3                   in Hawaii.

4                   The owner of an agricultural-based commercial  
 5                   operation shall certify, upon request of an officer or  
 6                   agent charged with enforcement of this chapter under  
 7                   section 205-12, that the agricultural products  
 8                   displayed or sold by the operation meet the  
 9                   requirements of this paragraph; [~~and~~]

10           (16)   Hydroelectric facilities as described in section  
 11           205-4.5(a)(23) [~~-~~]; and

12           (17)   Sustainable living research sites pursuant to chapter  
 13           \_\_\_\_\_.

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



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

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

9           (2) Game and fish propagation;

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

13          (4) Farm dwellings, employee housing, farm buildings, or  
14                 activities or uses related to farming and animal  
15                 husbandry. "Farm dwelling", as used in this  
16                 paragraph, means a single-family dwelling located on  
17                 and used in connection with a farm, including clusters  
18                 of single-family farm dwellings permitted within  
19                 agricultural parks developed by the State, or where  
20                 agricultural activity provides income to the family  
21                 occupying the dwelling;



- 1           (5) Public institutions and buildings that are necessary  
2           for agricultural practices;
- 3           (6) Public and private open area types of recreational  
4           uses, including day camps, picnic grounds, parks, and  
5           riding stables, but not including dragstrips,  
6           airports, drive-in theaters, golf courses, golf  
7           driving ranges, country clubs, and overnight camps;
- 8           (7) Public, private, and quasi-public utility lines and  
9           roadways, transformer stations, communications  
10          equipment buildings, solid waste transfer stations,  
11          major water storage tanks, and appurtenant small  
12          buildings such as booster pumping stations, but not  
13          including offices or yards for equipment, material,  
14          vehicle storage, repair or maintenance, treatment  
15          plants, corporation yards, or other similar  
16          structures;
- 17          (8) Retention, restoration, rehabilitation, or improvement  
18          of buildings or sites of historic or scenic interest;
- 19          (9) Agricultural-based commercial operations as described  
20          in section 205-2(d)(15);



- 1       (10) Buildings and uses, including mills, storage, and  
2           processing facilities, maintenance facilities,  
3           photovoltaic, biogas, and other small-scale renewable  
4           energy systems producing energy solely for use in the  
5           agricultural activities of the fee or leasehold owner  
6           of the property, and vehicle and equipment storage  
7           areas that are normally considered directly accessory  
8           to the above-mentioned uses and are permitted under  
9           section 205-2(d);
- 10       (11) Agricultural parks;
- 11       (12) Plantation community subdivisions, which as used in  
12           this chapter means an established subdivision or  
13           cluster of employee housing, community buildings, and  
14           agricultural support buildings on land currently or  
15           formerly owned, leased, or operated by a sugar or  
16           pineapple plantation; provided that the existing  
17           structures may be used or rehabilitated for use, and  
18           new employee housing and agricultural support  
19           buildings may be allowed on land within the  
20           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) Agricultural tourism activities, including overnight  
21 accommodations of twenty-one days or less, for any one



1 stay within a county; provided that this paragraph  
2 shall apply only to a county that includes at least  
3 three islands and has adopted ordinances regulating  
4 agricultural tourism activities pursuant to section  
5 205-5; provided further that the agricultural tourism  
6 activities coexist with a bona fide agricultural  
7 activity. For the purposes of this paragraph, "bona  
8 fide agricultural activity" means a farming operation  
9 as defined in section 165-2;

10 (15) Wind energy facilities, including the appurtenances  
11 associated with the production and transmission of  
12 wind generated energy; provided that the wind energy  
13 facilities and appurtenances are compatible with  
14 agriculture uses and cause minimal adverse impact on  
15 agricultural land;

16 (16) Biofuel processing facilities, including the  
17 appurtenances associated with the production and  
18 refining of biofuels that is normally considered  
19 directly accessory and secondary to the growing of the  
20 energy feedstock; provided that biofuel processing  
21 facilities and appurtenances do not adversely impact





1 agricultural land and other agricultural uses in the  
2 vicinity.

3 For the purposes of this paragraph:

4 "Appurtenances" means operational infrastructure  
5 of the appropriate type and scale for economic  
6 commercial storage and distribution, and other similar  
7 handling of feedstock, fuels, and other products of  
8 biofuel processing facilities.

9 "Biofuel processing facility" means a facility  
10 that produces liquid or gaseous fuels from organic  
11 sources such as biomass crops, agricultural residues,  
12 and oil crops, including palm, canola, soybean, and  
13 waste cooking oils; grease; food wastes; and animal  
14 residues and wastes that can be used to generate  
15 energy;

16 (17) Agricultural-energy facilities, including  
17 appurtenances necessary for an agricultural-energy  
18 enterprise; provided that the primary activity of the  
19 agricultural-energy enterprise is agricultural  
20 activity. To be considered the primary activity of an  
21 agricultural-energy enterprise, the total acreage



1 devoted to agricultural activity shall be not less  
2 than ninety per cent of the total acreage of the  
3 agricultural-energy enterprise. The agricultural-  
4 energy facility shall be limited to lands owned,  
5 leased, licensed, or operated by the entity conducting  
6 the agricultural activity.

7 As used in this paragraph:

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

10 "Agricultural-energy enterprise" means an  
11 enterprise that integrally incorporates an  
12 agricultural activity with an agricultural-energy  
13 facility.

14 "Agricultural-energy facility" means a facility  
15 that generates, stores, or distributes renewable  
16 energy as defined in section 269-91 or renewable fuel  
17 including electrical or thermal energy or liquid or  
18 gaseous fuels from products of agricultural activities  
19 from agricultural lands located in the State.

20 "Appurtenances" means operational infrastructure  
21 of the appropriate type and scale for the economic



1 commercial generation, storage, distribution, and  
2 other similar handling of energy, including equipment,  
3 feedstock, fuels, and other products of agricultural-  
4 energy facilities;

5 (18) Construction and operation of wireless communication  
6 antennas; provided that, for the purposes of this  
7 paragraph, "wireless communication antenna" means  
8 communications equipment that is either freestanding  
9 or placed upon or attached to an already existing  
10 structure and that transmits and receives  
11 electromagnetic radio signals used in the provision of  
12 all types of wireless communications services;  
13 provided further that nothing in this paragraph shall  
14 be construed to permit the construction of any new  
15 structure that is not deemed a permitted use under  
16 this subsection;

17 (19) Agricultural education programs conducted on a farming  
18 operation as defined in section 165-2, for the  
19 education and participation of the general public;  
20 provided that the agricultural education programs are  
21 accessory and secondary to the principal agricultural



1 use of the parcels or lots on which the agricultural  
2 education programs are to occur and do not interfere  
3 with surrounding farm operations. For the purposes of  
4 this paragraph, "agricultural education programs"  
5 means activities or events designed to promote  
6 knowledge and understanding of agricultural activities  
7 and practices conducted on a farming operation as  
8 defined in section 165-2;

9 (20) Solar energy facilities that do not occupy more than  
10 ten per cent of the acreage of the parcel, or twenty  
11 acres of land, whichever is lesser or for which a  
12 special use permit is granted pursuant to section 205-  
13 6; provided that this use shall not be permitted on  
14 lands with soil classified by the land study bureau's  
15 detailed land classification as overall (master)  
16 productivity rating class A unless the solar energy  
17 facilities are:

18 (A) Located on a paved or unpaved road in existence  
19 as of December 31, 2013, and the parcel of land  
20 upon which the paved or unpaved road is located  
21 has a valid county agriculture tax dedication



1 status or a valid agricultural conservation  
2 easement;

3 (B) Placed in a manner that still allows vehicular  
4 traffic to use the road; and

5 (C) Granted a special use permit by the commission  
6 pursuant to section 205-6;

7 (21) Solar energy facilities on lands with soil classified  
8 by the land study bureau's detailed land  
9 classification as overall (master) productivity rating  
10 B or C for which a special use permit is granted  
11 pursuant to section 205-6; provided that:

12 (A) The area occupied by the solar energy facilities  
13 is also made available for compatible  
14 agricultural activities at a lease rate that is  
15 at least fifty per cent below the fair market  
16 rent for comparable properties;

17 (B) Proof of financial security to decommission the  
18 facility is provided to the satisfaction of the  
19 appropriate county planning commission prior to  
20 date of commencement of commercial generation;  
21 and



1 (C) Solar energy facilities shall be decommissioned  
2 at the owner's expense according to the following  
3 requirements:

4 (i) Removal of all equipment related to the  
5 solar energy facility within twelve months  
6 of the conclusion of operation or useful  
7 life; and

8 (ii) Restoration of the disturbed earth to  
9 substantially the same physical condition as  
10 existed prior to the development of the  
11 solar energy facility.

12 For the purposes of this paragraph, "agricultural  
13 activities" means the activities described in  
14 paragraphs (1) to (3);

15 (22) Geothermal resources exploration and geothermal  
16 resources development, as defined under section 182-1;  
17 [~~or~~]

18 (23) Hydroelectric facilities, including the appurtenances  
19 associated with the production and transmission of  
20 hydroelectric energy, subject to section 205-2;



1 provided that the hydroelectric facilities and their  
2 appurtenances:

3 (A) Shall consist of a small hydropower facility as  
4 defined by the United States Department of  
5 Energy, including:

6 (i) Impoundment facilities using a dam to store  
7 water in a reservoir;

8 (ii) A diversion or run-of-river facility that  
9 channels a portion of a river through a  
10 canal or channel; and

11 (iii) Pumped storage facilities that store energy  
12 by pumping water uphill to a reservoir at  
13 higher elevation from a reservoir at a lower  
14 elevation to be released to turn a turbine  
15 to generate electricity;

16 (B) Comply with the state water code, chapter 174C;

17 (C) Shall, if over five hundred kilowatts in  
18 hydroelectric generating capacity, have the  
19 approval of the commission on water resource  
20 management, including a new instream flow



1 standard established for any new hydroelectric  
2 facility; and  
3 (D) Do not impact or impede the use of agricultural  
4 land or the availability of surface or ground  
5 water for all uses on all parcels that are served  
6 by the ground water sources or streams for which  
7 hydroelectric facilities are considered[-] or  
8 (24) Sustainable living research sites pursuant to chapter  
9 \_\_\_\_\_."

10 SECTION 5. Section 205-5, Hawaii Revised Statutes, is  
11 amended by amending subsection (c) to read as follows:

12 "(c) Unless authorized by special permit issued pursuant  
13 to this chapter, only the following uses shall be permitted  
14 within rural districts:

- 15 (1) Low density residential uses;
- 16 (2) Agricultural uses;
- 17 (3) Golf courses, golf driving ranges, and golf-related  
18 facilities;
- 19 (4) Public, quasi-public, and public utility facilities;
- 20 [~~and~~]





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1 (5) Geothermal resources exploration and geothermal  
 2 resources development, as defined under section 182-  
 3 1[-]; and

4 (6) Sustainable living research sites pursuant to chapter  
 5 \_\_\_\_\_.

6 In addition, the minimum lot size for any low density  
 7 residential use shall be one-half acre and there shall be but  
 8 one dwelling house per one-half acre, except as provided for in  
 9 section 205-2."

10 SECTION 6. Statutory material to be repealed is bracketed  
 11 and stricken. New statutory material is underscored.

12 SECTION 7. This Act shall take effect on July 1, 2017.

13

INTRODUCED BY:

*[Handwritten signatures]*  
 Andy Evans  
 Perry M. Smith  
 [Signature]  
 [Signature]  
 [Signature]  
 Tom [Signature]



# H.B. NO. 813

**Report Title:**

Sustainable Living Research; Permit

**Description:**

Establishes a permit that exempts sustainable living research and sites from certain county codes, ordinances, and rules.

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

