
A BILL FOR AN ACT

RELATING TO INDIGENOUS HAWAIIAN ARCHITECTURE.

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

1 SECTION 1. The legislature finds that indigenous Hawaiian
2 architecture is significant to Hawaiian history and culture.
3 Quoting the nineteenth century Hawaiian historian David Malo,
4 "[t]hree things were important for the well-being of the kanaka
5 maoli: The canoe for travel, fishing and warfare, the 'aina for
6 planting taro, and the hale that provided the place to rest."
7 As a society, there is much to learn from the Hawaiian people
8 and the wisdom of how they lived.

9 The legislature further finds that indigenous architecture
10 continued to be built and used well into the nineteenth century,
11 decades after Western contact. In 1998, the Maui county council
12 established codes permitting indigenous architecture to be built
13 using ancient techniques with the help of modern tools and
14 materials, including mortar, synthetic cord for the lashing, and
15 chainsaws to cut the logs. Indigenous architecture in Maui is
16 not permitted to have electricity or generators, and the codes
17 require the installation of automatic fire sprinklers and smoke
18 detectors, unless the building is located at least one hundred



1 feet from any other existing structure. The charm and
2 construction of indigenous Hawaiian architecture reinforces the
3 openness and friendly spirit of Hawaii's people.

4 The legislature also finds that Act 222, Session Laws of
5 Hawaii 2007, required each county to adopt ordinances "allowing
6 the exercise of indigenous native Hawaiian architectural
7 practices, styles, customs, techniques, and materials
8 historically employed by native Hawaiians, in the county's
9 building code, including but not limited to residential and
10 other structures . . . no later than March 31, 2008." The
11 legislature further finds that despite this requirement, there
12 has been little progress in the application of native Hawaiian
13 architectural practices for residential use.

14 The purpose of this Act is to authorize indigenous Hawaiian
15 architecture on agricultural lands to be used for farm worker
16 housing.

17 SECTION 2. Chapter 46, Hawaii Revised Statutes, is amended
18 by adding a new section to be appropriately designated and to
19 read as follows:

20 "§46- Indigenous Hawaiian architecture. Any law to the
21 contrary notwithstanding, each county shall adopt ordinances



1 allowing the exercise of indigenous native Hawaiian
 2 architectural practices, styles, customs, techniques, and
 3 materials historically employed by native Hawaiians, in the
 4 county's building code, including but not limited to residential
 5 and other structures composed of either rock wall or wood frame
 6 walls covered by thatches of different native grasses or other
 7 natural material for roofs, on land that is used for farming
 8 operations as defined in section 165-2, including for use as
 9 residential structures for farm workers."

10 SECTION 3. Section 205-2, Hawaii Revised Statutes, is
 11 amended by amending subsection (d) to read as follows:

12 "(d) Agricultural districts shall include:

- 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 indigenous Hawaiian architecture pursuant to section
5 46- , farm buildings, mills, storage facilities,
6 processing facilities, photovoltaic, biogas, and other
7 small-scale renewable energy systems producing energy
8 solely for use in the agricultural activities of the
9 fee or leasehold owner of the property, agricultural-
10 energy facilities as defined in section
11 205-4.5(a)(17), hydroelectric facilities in accordance
12 with section 205-4.5(a)(23), vehicle and equipment
13 storage areas, and plantation community subdivisions
14 as defined in section 205-4.5(a)(12);
15 (8) Wind machines and wind farms;
16 (9) Small-scale meteorological, air quality, noise, and
17 other scientific and environmental data collection and
18 monitoring facilities occupying less than one-half
19 acre of land; provided that these facilities shall not
20 be used as or equipped for use as living quarters or
21 dwellings;



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



1 fide agricultural activity" means a farming operation
2 as defined in section 165-2;

3 (13) Open area recreational facilities;

4 (14) Geothermal resources exploration and geothermal
5 resources development, as defined under section 182-1;
6 and

7 (15) Agricultural-based commercial operations, including:

8 (A) A roadside stand that is not an enclosed
9 structure, owned and operated by a producer for
10 the display and sale of agricultural products
11 grown in Hawaii and value-added products that
12 were produced using agricultural products grown
13 in Hawaii;

14 (B) Retail activities in an enclosed structure owned
15 and operated by a producer for the display and
16 sale of agricultural products grown in Hawaii,
17 value-added products that were produced using
18 agricultural products grown in Hawaii, logo items
19 related to the producer's agricultural
20 operations, and other food items; and



1 (C) A retail food establishment owned and operated by
2 a producer and permitted under title 11, chapter
3 12 of the rules of the department of health that
4 prepares and serves food at retail using products
5 grown in Hawaii and value-added products that
6 were produced using agricultural products grown
7 in Hawaii.

8 The owner of an agricultural-based commercial
9 operation shall certify, upon request of an officer or
10 agent charged with enforcement of this chapter under
11 section 205-12, that the agricultural products
12 displayed or sold by the operation meet the
13 requirements of this paragraph.

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 section, "agricultural education programs" means
5 activities or events designed to promote knowledge and
6 understanding of agricultural activities and practices
7 conducted on a farming operation as defined in section
8 165-2;

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
13 205-6; provided that this use shall not be permitted
14 on lands with soil classified by the land study
15 bureau's detailed land classification as overall
16 (master) productivity rating class A unless the solar
17 energy 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) Have a hydroelectric generating capacity of not
4 more than five hundred kilowatts;

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

6 (C) Are accessory to agricultural activities on
7 agricultural land for agricultural use only; and

8 (D) Do not adversely impact or impede the use of
9 agricultural land or the availability of surface
10 or ground water for all uses on all parcels that
11 are served by the ground water sources or streams
12 for which hydroelectric facilities are
13 considered[-]; or

14 (24) Indigenous Hawaiian architecture pursuant to section
15 46- ."

16 SECTION 5. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 6. This Act shall take effect upon its approval.

19



Report Title:

Indigenous Hawaiian Architecture; Agricultural Land

Description:

Requires each county to adopt ordinances to authorize indigenous native Hawaiian architectural practices and materials in the county's building code for agricultural lands that are to be used for farming operations, including farm worker housing.
(SD1)

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

