
A BILL FOR AN ACT

RELATING TO EXEMPTION FOR AGRICULTURAL BUILDINGS AND STRUCTURES.

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

1 SECTION 1. Section 46-88, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§46-88 Agricultural buildings and structures; exemptions
4 from building permit and building code requirements. (a)

5 Notwithstanding any law to the contrary, the following
6 agricultural buildings, structures, and appurtenances thereto
7 that are not used as dwellings or lodging units are exempt from
8 building permit and building code requirements where they are no
9 more than one thousand square feet in floor area:

10 (1) Nonresidential manufactured pre-engineered commercial
11 buildings and structures;

12 (2) Single stand alone recycled ocean shipping or cargo
13 containers that are used as nonresidential commercial
14 buildings and are properly anchored;

15 (3) Notwithstanding the one thousand square foot floor
16 area restriction, agricultural shade cloth structures,
17 cold frames, or greenhouses not exceeding twenty



- 1 thousand square feet in area per structure; provided
2 that where multiple structures are erected, the
3 minimum horizontal separation between each shade cloth
4 structure, cold frame, or greenhouse is fifteen feet;
- 5 (4) Aquacultural or aquaponics structures, including
6 above-ground water storage or production tanks,
7 troughs, and raceways with a maximum height of six
8 feet above grade, and in-ground ponds and raceways,
9 and piping systems for aeration, carbon dioxide, or
10 fertilizer or crop protection chemical supplies within
11 agricultural or aquacultural production facilities;
- 12 (5) Livestock watering tanks, water piping and plumbing
13 not connected to a source of potable water, or
14 separated by an air gap from such a source;
- 15 (6) Non-masonry fences not exceeding ten feet in height
16 and masonry fences not exceeding six feet in height;
- 17 (7) One-story masonry or wood-framed buildings or
18 structures with a structural span of less than twenty-
19 five feet and a total square footage of no more than
20 one thousand square feet, including farm buildings
21 used as:



- 1 (A) Barns;
- 2 (B) Greenhouses;
- 3 (C) Farm production buildings including aquaculture
- 4 hatcheries and plant nurseries;
- 5 (D) Storage buildings for farm equipment or plant or
- 6 animal supplies or feed; or
- 7 (E) Storage or processing buildings for crops;
- 8 provided that the height of any stored items
- 9 shall not collectively exceed twelve feet in
- 10 height;
- 11 (8) Raised beds containing soil, gravel, cinders, or other
- 12 growing media or substrates with wood, metal, or
- 13 masonry walls or supports with a maximum height of
- 14 four feet;
- 15 (9) Horticultural tables or benches no more than four feet
- 16 in height supporting potted plants or other crops; and
- 17 (10) Nonresidential indigenous Hawaiian hale that do not
- 18 exceed five hundred square feet in size, have no
- 19 kitchen or bathroom, and are used for traditional
- 20 agricultural activities or education;



1 provided that the buildings, structures, and appurtenances
2 thereto comply with all applicable state and county zoning
3 codes.

4 (b) Notwithstanding the one thousand square foot floor
5 area restriction in subsection (a), the following buildings,
6 structures, and appurtenances thereto shall be exempt from
7 building permit requirements when compliant with relevant
8 building codes or county, national, or international
9 prescriptive construction standards:

10 (1) Nonresidential manufactured pre-engineered and county
11 pre-approved commercial buildings and structures
12 consisting of a total square footage greater than one
13 thousand square feet but no more than eight thousand
14 square feet; and

15 (2) One-story wood-framed or masonry buildings or
16 structures with a structural span of less than twenty-
17 five feet and a total square footage greater than one
18 thousand square feet but no more than eight thousand
19 square feet constructed in accordance with county,
20 national, or international prescriptive construction
21 standards, including buildings used as:



- 1 (A) Barns;
- 2 (B) Greenhouses;
- 3 (C) Farm production buildings, including aquaculture
- 4 hatcheries and plant nurseries;
- 5 (D) Storage buildings for farm equipment, plant or
- 6 animal supplies, or feed; or
- 7 (E) Storage or processing buildings for crops;
- 8 provided that the height of any stored items
- 9 shall not collectively exceed twelve feet in
- 10 height.
- 11 (c) The exemptions in subsections (a) and (b) shall apply;
- 12 provided that:
- 13 (1) The aggregate floor area of the exempted agricultural
- 14 buildings shall not exceed:
- 15 (A) Five thousand square feet per zoning lot for lots
- 16 of two acres or less;
- 17 (B) Eight thousand square feet per zoning lot for
- 18 lots greater than two acres but not more than
- 19 five acres; and
- 20 (C) Eight thousand square feet plus two per cent of
- 21 the acreage per zoning lot for lots greater than



- 1 five acres; provided that each exempted
2 agricultural building is compliant with the
3 square foot area restrictions in subsection (a)
4 or subsection (b);
- 5 (2) The minimum horizontal separation between each
6 agricultural building, structure, or appurtenance
7 thereto is fifteen feet;
- 8 (3) The agricultural buildings, structures, or
9 appurtenances thereto are located on a commercial farm
10 or ranch and are used for general agricultural or
11 aquacultural operations, or for purposes incidental to
12 such operations;
- 13 (4) The agricultural buildings, structures, or
14 appurtenances thereto are constructed or installed on
15 property that is used primarily for agricultural or
16 aquacultural operations, and is two or more contiguous
17 acres in area or one or more contiguous acres in area
18 if located in a nonresidential agricultural or
19 aquacultural park;
- 20 (5) An owner or occupier, that intends to utilize the
21 exemptions under this section, shall provide written

1 notice to the appropriate county agency of the size,
2 type, and location of the proposed building,
3 structure, related appurtenances, or development. No
4 work shall commence until the county agency has
5 determined that a building permit for the proposed
6 building, structure, related appurtenances, or
7 development is not required for compliance with local,
8 state, or federal floodplain management development
9 standards, ordinances, codes, statutes, rules, or
10 regulations pursuant to the National Flood Insurance
11 Program requirements;

12 [~~5~~] ~~Upon completion of construction or installation, the]~~

13 (6) The owner or occupier shall provide written
14 notice to the appropriate county fire department and
15 county building permitting agency of the final as-
16 built size, type, and [~~locations~~] location of the
17 building, structure, [~~or appurtenance thereto.~~]
18 related appurtenances, or development. Such written
19 notification shall be provided to the county agencies
20 within thirty calendar days of the completion,
21 occupancy, or use of the building, structure, [~~or~~]



1 related appurtenances [~~thereto.~~], or development.

2 Failure to provide such written notice may void the
3 building permit or building code exemption, or both,
4 which voidance for such failure is subject to the sole
5 discretion of the appropriate county building
6 permitting agency;

7 [~~(6)~~] (7) No electrical power and no plumbing systems shall
8 be connected to the building or structure without
9 first obtaining the appropriate county electrical or
10 plumbing permit, and all such installations shall be
11 installed under the supervision of a licensed
12 electrician or plumber, as appropriate, and inspected
13 and approved by an appropriate county or licensed
14 inspector or, if a county building agency is unable to
15 issue an electrical permit because the building or
16 structure is permit-exempt, an electrical permit shall
17 be issued for an electrical connection to a meter on a
18 pole beyond the permit-exempt structure in accordance
19 with the installation, inspection, and approval
20 requirements in this paragraph;



1 ~~[-(7)]~~ (8) Disposal of wastewater from any building or
2 structure constructed or installed pursuant to this
3 section shall comply with chapter 342D; and

4 ~~[-(8)]~~ (9) Permit-exempt structures shall be exempt from any
5 certificate of occupancy requirements.

6 (d) As used in this section:

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

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



1 "Appurtenance" means an object or device in, on, or
2 accessory to a building or structure, and which enhances or is
3 essential to the usefulness of the building or structure,
4 including but not limited to work benches, horticultural and
5 floricultural growing benches, aquacultural, aquaponic, and
6 hydroponic tanks, raceways, troughs, growbeds, and filterbeds,
7 when situated within a structure.

8 "Aquacultural operation" means the propagation,
9 cultivation, farming, harvesting, processing, and storage of
10 aquatic plants and animals in controlled or selected
11 environments for research, commercial, or stocking purposes and
12 includes aquaponics or any growing of plants or animals in or
13 with aquaculture effluents.

14 "Development" means any manmade change to improved or
15 unimproved real estate, including but not limited to buildings
16 or other structures, mining, dredging, filling, grading, paving,
17 excavation or drilling operations, or storage of equipment or
18 materials.

19 "Dwellings" means buildings or parts thereof designed for
20 or used for residential occupancy or both.



1 "Manufactured pre-engineered commercial building or
2 structure" means a building or structure whose specifications
3 comply with appropriate county codes, and have been pre-approved
4 by a county or building official.

5 "Nonresidential building or structure" means a building or
6 structure, including an agricultural building, that is used only
7 for agricultural or aquacultural operations and is not intended
8 for use as, or used as, a dwelling.

9 (e) This section shall not apply to buildings or
10 structures otherwise exempted from building permitting or
11 building code requirements by applicable county ordinance.

12 (f) This section shall not be construed to supersede
13 public or private lease conditions.

14 (g) This section shall not apply to [~~the construction or~~
15 ~~installation of any building or structure~~] development on land
16 in [~~an~~] the state land use urban district.

17 (h) The State or any county shall not be liable for claims
18 arising from the construction of agricultural buildings,
19 structures, [~~or~~] related appurtenances, or other development
20 thereto exempt from the building code and permitting process as



1 described in this section, unless the claim arises out of gross
2 negligence or intentional misconduct by the State or county.

3 (i) This section shall not apply to buildings or
4 structures used to store pesticides or other hazardous material
5 unless stored in accordance with federal and state law.

6 (j) This section does not exempt any new or existing
7 agricultural buildings, structures, related appurtenances, or
8 other development from building permit requirements and other
9 requirements of local, state, or federal floodplain management
10 development standards, ordinances, codes, statutes, rules, or
11 regulations pursuant to National Flood Insurance Program
12 requirements.

13 [~~(j)~~] (k) Failure to comply with the conditions of this
14 section shall result in penalties consistent with county
15 building department provisions."

16 SECTION 2. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 3. This Act shall take effect on January 7, 2059.

19



Report Title:

Exemption; Building Permit and Building Code Requirements;
Agricultural Building and Structures

Description:

Clarifies procedures for an exemption from building permit and building code requirements pursuant to section 46-88, Hawaii Revised Statutes, and clarifies that section 46-88 does not exempt any new or existing agricultural buildings, structures, related appurtenances, or other development from local, state, or federal floodplain management development standards, ordinances, codes, statutes, rules, or regulations pursuant to National Flood Insurance Program requirements. Takes effect 1/7/2059. (SD1)

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