

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2008)

A BILL FOR AN ORDINANCE TO ESTABLISH SOLAR ENERGY FACILITIES AS PERMITTED USES IN THE AGRICULTURAL ZONING DISTRICT

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Section 19.04.040, Maui County Code, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Solar energy facilities" means any devices, elements, or substances, or any combination of devices, elements, or substances, that rely upon direct sunlight as an energy source, including those that collect sunlight for use in:

1. The heating or cooling of a structure or building;
2. The heating or pumping of water;
3. Industrial, commercial, or agricultural processes; or
4. The generation of electricity."

SECTION 2. Section 19.30A.050, Maui County Code, is amended to read as follows:

"19.30A.050. Permitted uses. The following uses and structures shall be permitted in the agricultural district provided they also comply with all other applicable laws:

- A. Principal Uses.
  1. Agriculture;
  2. Agricultural land conservation;
  3. Agricultural parks, pursuant to chapter 171, Hawai'i Revised Statutes;
  4. Animal and livestock raising, including animal feed lots and sales yards;

**EXHIBIT " A "**

5. Private agricultural parks as defined herein;

6. Minor utility facilities as defined in section 19.04.040, Maui County Code; [and]

7. Retention, restoration, rehabilitation, or improvement of buildings, sites, or cultural landscapes of historical or archaeological significance[.]; and

8. Solar energy facilities as defined in section 19.04.040, Maui County Code; provided that this use shall apply only to land with soil classified by the land study bureau's detailed land classification as overall (master) productivity rating class D or E.

B. Accessory Uses. Uses [which] that are incidental or subordinate to, or customarily used in conjunction with a permitted principal use, as follows:

1. Two farm dwellings per lot, one of which shall not exceed one thousand square feet of developable area;

2. One farm labor dwelling per five acres of lot area. On the island of Maui, the owner or lessee of the lot shall meet two of the following three criteria:

a. Provide proof of at least \$35,000 of gross sales of agricultural product(s) per year, for the preceding two consecutive years, for each farm labor dwelling on the lot, as shown by State general excise tax forms and federal Schedule F forms;

b. Provide certification by the Maui board of water supply that agricultural water rates are being paid if the subject lot is served by the County water system; or

c. Provide a farm plan that demonstrates the feasibility of commercial agricultural production.

On the islands of Moloka'i and Lana'i, the owner or lessee of the lot shall meet both of the criteria provided by subsections 19.30A.050.B.2.a and 19.30A.050.B.2.b;

3. One agricultural products stand per lot, for the purpose of displaying and selling agricultural products grown and processed on the premises or grown in the County, provided that

said stand shall not exceed three hundred square feet, shall be set back at least fifteen feet from roadways, shall have a wall area [which] that is at least fifty percent open, and shall meet the off-street parking requirements for roadside stands provided by section 19.36.010, Maui County Code, except that paved parking shall not be required; stands [which] that display or sell agricultural products [which] that are not grown on the premises shall be required to obtain a special permit pursuant to chapter 205, Hawai'i Revised Statutes;

4. Farmer's markets, for the growers and producers of agricultural products to display and sell agricultural products grown and processed in the County; structures shall have a wall area [which] that is at least fifty percent open; markets shall operate only during daylight hours and shall not operate on parcels less than ten acres; the director of public works [and waste management] may impose additional requirements if a building permit is required for any structures; markets [which] that display or sell agricultural products [which] that are not grown on the premises shall be required to obtain a special permit pursuant to chapter 205, Hawai'i Revised Statutes;

5. Storage, wholesale and distribution, including barns; greenhouses; storage facilities for agricultural supplies, products and irrigation water; farmer's cooperatives; and similar structures that are customarily associated with one or more of the permitted principal uses or, for the purpose of this section, are associated with agriculture in the County;

6. Processing of agricultural products, the majority of which are grown in the County; this includes the burning of bagasse as part of an agricultural operation;

7. Energy systems, small-scale;

8. Small-scale animal-keeping;

9. Animal hospitals and animal board facilities; if conducted on the island of Moloka'i, such uses shall have been approved by

the Moloka'i planning commission as conforming to the intent of this chapter;

10. Riding academies; if conducted on the island of Moloka'i, such uses shall have been approved by the Moloka'i planning commission as conforming to the intent of this chapter;

11. Open land recreation as follows: hiking; noncommercial camping; fishing; hunting; equestrian activities; rodeo arenas; arboretums; greenways; botanical gardens; guided tours [which] that are accessory to principal uses, such as farm or plantation tours, petting zoos, and garden tours; hang gliding; paragliding; mountain biking; and accessory restroom facilities. If hiking, fishing, hunting, equestrian activities, rodeo arenas, hang gliding, paragliding, or mountain biking [and] are conducted for commercial purposes on the island of Moloka'i, such uses shall have been approved by the Moloka'i planning commission as conforming to the intent of this chapter. Open land recreation uses or structures not specifically permitted by this subsection or by subsection 19.30A.060.H shall be prohibited; certain open land recreation uses or structures may also be required to obtain a special permit pursuant to chapter 205, Hawai'i Revised Statutes;

12. Parks for public use, not including golf courses and not including commercial uses except when under the supervision of a government agency in charge of parks and playgrounds; and

13. Other uses [which] that primarily support a permitted principal use; however, such uses shall be approved by the appropriate planning commission as conforming to the intent of this chapter."

SECTION 3. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 4. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:

---

MICHAEL J. HOPPER  
Deputy Corporation Counsel  
County of Maui  
S:\CLERICAL\LJN\ORD\solarenergy08.doc

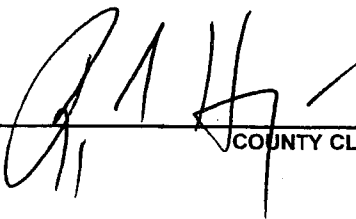
**COUNCIL OF THE COUNTY OF MAUI**

**WAILUKU, HAWAII 96793**

**CERTIFICATION OF ADOPTION**

**It is HEREBY CERTIFIED that RESOLUTION NO. 08-95 was adopted by the Council of the County of Maui, State of Hawaii, on the 7th day of November, 2008, by the following vote:**

<b>MEMBERS</b>	<b>G. Riki HOKAMA Chair</b>	<b>Dennis A. MATEO Vice-Chair</b>	<b>Michelle ANDERSON</b>	<b>Gladys C. BAISA</b>	<b>Jo Anne JOHNSON</b>	<b>William J. MEDEIROS</b>	<b>Michael J. MOLINA</b>	<b>Joseph PONTANILLA</b>	<b>Michael P. VICTORINO</b>
<b>ROLL CALL</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>	<b>Aye</b>

  
\_\_\_\_\_  
COUNTY CLERK