

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

June 6, 2013

**Committee
Report No.** _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Planning Committee, having met on May 21, 2013, makes reference to County Communication 13-85, from Councilmember Elle Cochran, transmitting a proposed resolution entitled "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL AMENDING CHAPTER 19.30A, MAUI COUNTY CODE, RELATING TO ROADSIDE STANDS AND FARMER'S MARKETS IN THE AGRICULTURAL DISTRICT".

The purpose of the proposed resolution is to refer to the planning commissions a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.30A, MAUI COUNTY CODE, RELATING TO ROADSIDE STANDS AND FARMER'S MARKETS IN THE AGRICULTURAL DISTRICT".

The purpose of the proposed bill is to allow as accessory uses in the County Agricultural District, subject to certain restrictions: (1) roadside stands owned and operated by a producer for the display and sale of agricultural products grown in Hawaii and value-added products that were produced using agricultural products grown in Hawaii; and (2) farmer's markets owned and operated by a producer for the display and sale of agricultural products grown in Hawaii, value-added products that were produced using agricultural products grown in Hawaii, logo items related to the producer's agricultural operations, and other food items.

Your Committee notes the current language of Section 19.30A.050(3), Maui County Code, limits the accessory use of agricultural products stands to the display or sale of agricultural products *grown and processed on the premises or grown in the County*. Section 19.30A.050(4), limits the accessory use of farmer's markets for the growers and producers of agricultural products to display and sell the agricultural products *grown and processed in the County*. There are other restrictions to agricultural stands and farmer's markets, including size of structure, allowable wall space, hours of operation, and similar restrictions, that remain unchanged by the proposed bill.

COUNCIL OF THE COUNTY OF MAUI
PLANNING COMMITTEE

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Committee
Report No. _____

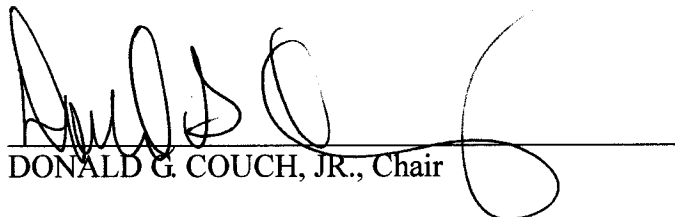
Your Committee further notes the proposed bill would make the accessory uses in the County Agricultural District more consistent with recent changes to the permissible uses in the State Agricultural District made by Act 113 (2012). The proposed bill would allow roadside stands and farmers markets, *owned and operated by a producer*, to display and sell agricultural products *grown in Hawaii and value-added products that were produced using agricultural products grown in Hawaii*. The proposed bill would also allow farmer's markets to display and sell logo items related to the producer's agricultural operations, and other food items.

Your Committee felt the proposed bill was a step in the right direction to support agricultural activities in the County by giving roadside stands and farmer's markets more flexibility in their commercial operations. However, your Committee expressed concerns relating to implementation of the bill, potential unintended consequences, and enforcement issues. Your Committee agreed that the proposed bill should be referred to the Economic Development, Energy, Agriculture and Recreation Committee to allow the Committee to discuss the bill further, and make clarifying revisions prior to referring the proposed bill to the planning commissions.

Your Committee voted 5-0 to recommend referral of the communication to the Economic Development, Energy, Agriculture and Recreation Committee. Committee Chair Couch, and members Cochran, Crivello, Guzman, and White voted "aye". Committee Vice-Chair Victorino and member Baisa were excused.

Your Planning Committee **RECOMMENDS** that County Communication 13-85 be **REFERRED** to the Economic Development, Energy, Agriculture and Recreation Committee.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



DONALD G. COUCH, JR., Chair

Council Chair
Gladys C. Baisa

Vice-Chair
Robert Carroll

Council Members
Elle Cochran
Donald G. Couch, Jr.
Stacy Crivello
Don S. Guzman
G. Riki Hokama
Michael P. Victorino
Mike White



Director of Council Services
David M. Raatz, Jr., Esq.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/council

February 11, 2013

RECEIVED
2013 FEB 11 PM 2:40
OFFICE OF THE
COUNTY CLERK

The Honorable Gladys C. Baisa, Chair
and Members of the Council
County of Maui
Wailuku, Hawaii 97693

Dear Ms. Baisa:

**SUBJECT: ROADSIDE STANDS AND FARMER'S MARKETS IN THE
AGRICULTURAL DISTRICT (PAF 12-227)**

Please find attached a proposed resolution entitled "REFERRING TO THE LANAI, MAUI, AND MOLOKAI PLANNING COMMISSIONS A PROPOSED BILL AMENDING CHAPTER 19.30A, MAUI COUNTY CODE, RELATING TO ROADSIDE STANDS AND FARMER'S MARKETS IN THE AGRICULTURAL DISTRICT."

May I request that the attached proposed resolution be referred to the appropriate standing committee for discussion and action.

Sincerely,

A handwritten signature in cursive script that reads "Elle Cochran".

ELLE COCHRAN
Council Member

paf:kmh:12-227d

Enclosure

COUNTY COMMUNICATION NO. 13-85

Resolution

No. _____

REFERRING TO THE LANAI, MAUI, AND MOLOKAI
PLANNING COMMISSIONS A PROPOSED BILL AMENDING
CHAPTER 19.30A, MAUI COUNTY CODE, RELATING TO
ROADSIDE STANDS AND FARMER'S MARKETS IN THE
AGRICULTURAL DISTRICT

WHEREAS, the Council is considering a proposed bill to amend Chapter 19.30A, Maui County Code, relating to roadside stands and farmer's markets in the agricultural district; and

WHEREAS, Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, require that the appropriate planning commissions review proposed land use ordinances and provide findings and recommendations to the Council; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby refers the proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.30A, MAUI COUNTY CODE, RELATING TO ROADSIDE STANDS AND FARMER'S MARKETS IN THE AGRICULTURAL DISTRICT", a copy of which is attached hereto as Exhibit "A" and made a part hereof, to the Lanai Planning Commission, the Maui Planning Commission, and the Molokai Planning Commission, pursuant to Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended; and
2. That it respectfully requests that the Lanai Planning Commission, the Maui Planning Commission, and the Molokai Planning Commission transmit their respective findings and recommendations to the Council as expeditiously as possible; and
3. That certified copies of this resolution be transmitted to the Mayor, the Planning Director, the Lanai Planning Commission, the Maui Planning Commission, and the Molokai Planning Commission.

APPROVED AS TO FORM AND LEGALITY



Department of the Corporation Counsel
County of Maui
paf:kmh:12-227b

ORDINANCE NO. _____

BILL NO. _____ (2013)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 19.30A, MAUI COUNTY CODE,
RELATING TO ROADSIDE STANDS AND FARMER'S MARKETS IN THE
AGRICULTURAL DISTRICT

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

SECTION 1. Section 19.30A.050, Maui County Code, is amended by amending
subsection B to read as follows:

"B. Accessory Uses. Uses 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 form 1040 Schedule F filings;
 - b. Provide certification by the department 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] roadside 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 that is at least fifty percent open, and shall meet the off-street parking requirements for roadside stands provided by section 19.36.010 of this [code,] title, except that paved parking shall not be required; stands that display or sell agricultural products that are not grown on the premises shall be required

EXHIBIT " A "

to obtain a special permit pursuant to chapter 205, Hawai'i Revised Statutes;] that is owned and operated by a producer for the display and sale of agricultural products grown in Hawaii and value-added products that were produced using agricultural products grown in Hawaii; provided that the roadside stand does not exceed three hundred square feet, is set back at least fifteen feet from roadways, has a wall area that is at least fifty per cent open, and meets the off-street parking requirements for roadside stands provided by section 19.36A.010 of this title, except that paved parking shall not be required;

4. Farmer's markets[, for the growers and producers of agricultural products to] owned and operated by a producer for the display and [sell] sale of agricultural products grown [and processed in the County;] in Hawaii, value-added products that were produced using agricultural products grown in Hawaii, logo items related to the producer's agricultural operations, and other food items; structures shall have a wall area that is at least fifty [percent] per cent open; markets shall operate only during daylight hours and shall not operate on parcels less than ten acres; the director of public works may impose additional requirements if a building permit is required for any structures; [markets that display or sell agricultural products 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 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 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, Hawaii Revised Statutes;

12. Except on Moloka'i, bed and breakfast homes permitted under chapter 19.64 of this [code] title that are:

a. Operated in conjunction with a bona fide agricultural operation that produced \$35,000 of gross sales of agricultural products for each of the preceding two years, as shown by State general excise tax forms and federal form 1040 schedule F filings; or

b. In compliance with all of the following criteria, provided that the bed and breakfast home is not subject to a condominium property regime pursuant to chapter 514A, Hawaii Revised Statutes:

i. The lot was created prior to November 1, 2008.

ii. The lot is comprised of five acres or less; and

iii. An approved farm plan has been fully implemented and is consistent with chapter 205, Hawaii Revised Statutes; or

c. Located in sites listed on the State of Hawaii Historic Register or the National Register of Historic Places.

13. 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

14. Other uses 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 2. Section 19.30A.060, Maui County Code, is amended to read as follows:

“19.30A.060 Special uses. The following uses and structures shall be permitted in the agricultural district if a special use permit, pursuant to section 19.510.070 of this title has been obtained; except that if a use described in this section also requires a special permit pursuant to chapter 205, Hawaii Revised Statutes, and if the land area of the subject parcel is fifteen acres or less, the state special permit shall fulfill the requirements of this section:

A. Additional farm dwellings beyond those permitted by subsection 19.30A.050.B.1;

B. Farm labor dwellings that do not meet the criteria of subsection 19.30A.050.B.2;

C. [Agricultural products] Roadside stands that do not meet the standards of subsection 19.30A.050.B.3;

D. Farmer's markets that do not meet the standards of subsection 19.30A.050.B.4;

E. Public and quasi-public institutions that are necessary for agricultural practices;

F. Major utility facilities as defined in section 19.04.040 of this title;

G. Telecommunications and broadcasting antenna;

H. Open land recreation uses, structures or facilities which do not meet the criteria of subsection 19.30A.050.B.11, including commercial camping, gun or firing ranges, archery ranges, skeet shooting, paint ball, bungee jumping, skateboarding, roller blading, playing fields, accessory buildings and structures. Certain open land recreation uses or structures may also be required to obtain a special permit pursuant to chapter 205, Hawaii Revised Statutes. The following uses or structures shall be prohibited: airports, heliports, drive-in theaters, country clubs, drag strips, motor sports facilities, golf courses and golf driving ranges;

I. Cemeteries, crematories, and mausoleums;

J. Churches and religious institutions;

K. Mining and resource extraction;

L. Landfills;

M. Solar energy facilities that are greater than fifteen acres; and

N. Short-term rental homes, subject to the provisions of chapter 19.65 of this title; provided that, the applicant need not obtain a County special use permit pursuant to section 19.510.070 of this title; and provided further that, if the property containing the short-term rental home is located in the [State] state agricultural district, the applicant shall obtain a [State] state special use permit, pursuant to section 205-6, Hawaii Revised Statutes, in addition to the short-term rental home permit required by chapter 19.65 of this title.”

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:

Department of the Corporation Counsel
County of Maui

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