

**COUNCIL OF THE COUNTY OF MAUI**  
**PLANNING COMMITTEE**

September 4, 2015

**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 August 20, 2015, makes reference to County Communication 14-175, from Councilmember Don S. Guzman, transmitting a proposed resolution relating to family child care homes in the Agricultural District.

The Council adopted Resolution 14-81 on July 8, 2014, referring to the Lanai, Maui, and Molokai planning commissions a proposed bill to allow family child care homes in the Agricultural District, consistent with Section 46-15.35, Hawaii Revised Statutes, as amended by Act 210 (2014).

Your Committee notes the Council referred County Communication 14-175 to your Committee (County Communication 15-2) at its meeting of January 2, 2015.

Your Committee notes the Mayor of Maui County and the Chair of the Maui County Council during the 2014 State Legislative Session testified in support of the measure that became Act 210 (2014). Your Committee further notes Conference Committee Report 5-14, recommending passage of the measure, stated it would "assist child care providers located in agriculturally designated districts in meeting the child care needs of the community."

In response to Resolution 14-81, the Planning Director transmitted the planning commissions' comments and recommendations on the proposed bill, pursuant to Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended. The planning commissions recommended approval of the proposed bill.

**COUNCIL OF THE COUNTY OF MAUI**  
**PLANNING COMMITTEE**

Page 2

**Committee**  
**Report No.** \_\_\_\_\_

Your Committee is also in receipt of correspondence dated August 13, 2015, from the Chair of your Committee, transmitting a revised proposed bill, entitled "A BILL FOR AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE TO ALLOW FAMILY CHILD CARE HOMES WITHIN THE AGRICULTURAL DISTRICT," incorporating nonsubstantive revisions.

The purpose of the revised proposed bill is to allow family child care homes located within farm dwellings as an accessory use within the Agricultural District.

Your Committee further revised the proposed bill to incorporate a clarifying revision suggested by a Deputy Corporation Counsel.

Your Committee voted 6-0 to recommend passage of the further revised proposed bill on first reading and filing of the communication. Committee Chair Couch and members Baisa, Cochran, Guzman, Victorino, and White voted "aye". Committee Vice-Chair Carroll was excused.

Your Committee is in receipt of an additionally revised proposed bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions and nonsubstantive revisions.

Your Planning Committee RECOMMENDS the following:

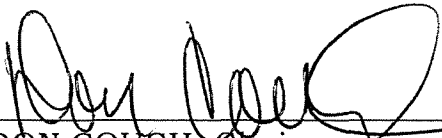
1. That Bill \_\_\_\_\_ (2015), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE TO ALLOW FAMILY CHILD CARE HOMES WITHIN THE AGRICULTURAL DISTRICT," be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication 14-175 be FILED.

COUNCIL OF THE COUNTY OF MAUI  
**PLANNING COMMITTEE**

Page 3

**Committee**  
**Report No.** \_\_\_\_\_

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

  
\_\_\_\_\_  
DON COUCH, Chair

pc:cr:15009aa:gjg/jkm

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

BILL NO. \_\_\_\_\_ (2015)

A BILL FOR AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING  
ORDINANCE TO ALLOW FAMILY CHILD CARE HOMES  
WITHIN THE AGRICULTURAL DISTRICT

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

SECTION 1. The purpose of this ordinance is to establish that family child care homes, registered pursuant to Chapter 346, Hawaii Revised Statutes, are permitted as accessory uses in the Agricultural District.

SECTION 2. 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] Molokai and [Lana'i] Lanai, the owner or lessee of the lot shall meet both of the criteria provided by subsections [19.30A.050.B.2.a] 19.30A.050(B)(2)(a) and [19.30A.050.B.2.b] 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 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, 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 to obtain a special permit pursuant to chapter 205, [Hawai'i] Hawaii 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 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 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] Hawaii 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] Molokai, such uses shall have been approved by the [Moloka'i] Molokai planning commission as conforming to the intent of this chapter;

10. Riding academies; if conducted on the island of [Moloka'i] Molokai, such uses shall have been approved by the

[Moloka'i] Molokai 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] Molokai, such uses shall have been approved by the [Moloka'i] Molokai 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] 19.30A.060(A)(8) 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] Hawaii Revised Statutes[;].

12. Except on [Moloka'i] Molokai, bed and breakfast homes permitted under chapter 19.64 of this code 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. Family child care homes as defined in section 46-15.35(b) Hawaii Revised Statutes, that are registered

pursuant to chapter 346, Hawaii Revised Statutes, and located in a farm dwelling.

15. 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 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  
2014-3062