

TITLE MC-12

DEPARTMENT OF PLANNING

SUBTITLE 01

DIRECTOR OF THE DEPARTMENT OF PLANNING

CHAPTER 102

RULES RELATING TO THE ADMINISTRATION
OF CHAPTER 19.30A, MAUI COUNTY CODE, PERTAINING
TO THE AGRICULTURAL DISTRICT

Effective date: January 6, 2019

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SUBCHAPTER 1

GENERAL PROVISIONS

§12-102-1 Title. The rules in this chapter shall be known as the "Rules Relating to the Administration of Chapter 19.30A, Maui County Code, Pertaining to the Agricultural District". (Auth: HRS Chapter 91-2, §§205-2, 205-4.5 and 205-12; MCC Chapter 19.30A; Maui County Charter §8-8.3) (Imp: HRS Chapter 91-2, §§205-2, 205-4.5 and 205-12; MCC Chapter 19.30A; Maui County Charter §8-8.3)

§12-102-2 Purpose. The purpose of these rules is to: regulate farm dwellings and accessory agricultural structures and establish procedures for verifying principal agricultural uses in accordance with chapter 205, Hawaii Revised Statutes, and chapter 19.30A, Maui County Code; encourage sustainable agricultural practices; and protect and preserve agricultural resources. (Auth: HRS Chapter 91-2, §§205-2, 205-4.5 and 205-12; MCC Chapter 19.30A; Maui County Charter §8-8.3) (Imp: HRS Chapter 91-2, §§205-2, 205-4.5 and 205-12; MCC Chapter 19.30A; Maui County Charter §8-8.3)

§12-102-3 Definitions. For purposes of this chapter, and unless it is plainly evident from the context that a different meaning is intended, certain words and phrases used herein are defined by chapters 19.04 and 19.30A, Maui County Code; other certain words and phrases used herein are defined as follows:

“Accessory agricultural structure” means a building or structure that is used to support agriculture, agricultural land conservation and/or animal and livestock raising, such as an office, barn, stable, storage building, processing facility, workshop or combination thereof. For the purposes of these rules, commercial agricultural structures, farm dwellings and private garages, which are defined in chapters 19.04 and 19.30A, Maui County Code, shall not be considered accessory agricultural structures.

“Declaration” means a form provided by the director that declares a property owner’s compliance with chapter 205, Hawaii Revised Statutes, and chapter 19.30A, Maui County Code.

“Department” means the department of planning.

“Director” means the director of the department of planning.

“Enclosed living area” means any portion of a dwelling that is covered by a roof and is surrounded on three or more sides by a constructed barrier, other than safety railings, such as a wall, that is greater than forty-two inches in height measured from the finished floor or finished grade.

(Auth: HRS Chapter 91-2, §§205-2, 205-4.5 and 205-12; MCC Chapter 19.30A; Maui County Charter §8-8.3) (Imp: HRS Chapter 91-2, §§205-2, 205-4.5 and 205-12; MCC Chapters 19.04, 19.30A; Maui County Charter §8-8.3)

§12-102-4 Declaration required. The director shall not approve a building permit for a farm dwelling, accessory agricultural structure or private garage unless the owner of the subject property has executed and filed with the department a declaration. Before or with a building permit application or other development application, the applicant shall provide the department with a declaration verifying compliance with chapter 205, Hawaii Revised Statutes, and chapter 19.30A, Maui County Code. The declaration shall be made by the current owner of the subject property. If the property is sold to a new owner, then any applicant for a building permit or other development on the property must provide a declaration from the new owner at the time of the application for a building permit or other development. (Auth: HRS Chapter 91-2, §§205-2, 205-4.5 and 205-12; MCC Chapter 19.30A; Maui County Charter §8-8.3) (Imp: HRS Chapter 91-2, §§205-2, 205-4.5 and 205-12; MCC Chapter 19.30A; Maui County Charter §8-8.3)

SUBCHAPTER 2

PROCEDURES

§12-102-5 Farm dwellings, farm labor dwellings, and accessory agricultural structures. Farm dwellings are subject to developable area and enclosed living area restrictions, pursuant to chapter 19.30A, Maui County Code. To regulate compliance with these restrictions:

- (1) Accessory agricultural structures shall not be used for dwelling purposes.
- (2) Farm dwellings shall not be attached to each other or to farm labor dwellings.
- (3) Farm labor dwellings may be attached to each other.
- (4) Any farm dwelling and any farm labor dwelling may have an attached or detached private garage.
- (5) The farm dwelling that may exceed one thousand square feet of developable area pursuant to subsection 19.30A.050(B)(1), Maui County Code, may be attached to, or have attached to it, any accessory agricultural structure.
- (6) The farm dwelling that shall not exceed one thousand square feet of developable area pursuant to subsection 19.30A.050(B)(1), Maui County Code, may be attached to, or have attached to it, any accessory agricultural structure, provided that the uses of each structure are separated by a solid constructed barrier such as a wall and provided that each structure has a separate exterior entrance; however, if the accessory agricultural structure is not enclosed on more than three sides by a constructed barrier such as a wall, lattice, canvas or screening that is greater than forty-two inches in height, such as a lean-to shed, then a separate exterior entrance is not required.
- (7) Accessory agricultural structures can have plumbing and electrical fixtures and services.
- (8) The director may require building permit applicants for accessory agricultural structures to provide a written description of the agricultural activity conducted or proposed to be conducted on the property. The building permit applicant may include photographs or other indicators of agricultural activity, such as receipts for donations of agricultural products, tax information demonstrating commercial agricultural production, verification from the department of water supply that agricultural water rates are being paid, or demonstration of agricultural dedication for real property tax purposes. (Auth: HRS Chapter 91-2, §§205-2, 205-4.5 and 205-12; MCC Chapter 19.30A; Maui County Charter §8-8.3) (Imp: HRS Chapter 91-2, §§205-2, 205-4.5 and 205-12; MCC Chapter 19.30A; Maui County Charter §8-8.3)

§12-102-6 Commercial agricultural structures. (a) A commercial agricultural structure may be attached to any farm dwelling, provided that the uses of each structure are separated by a solid constructed barrier such as a wall. A commercial agricultural structure may be attached to or incorporated in an accessory agricultural building provided that the floor area of the commercial agricultural structure is clearly separated from the rest of the structure, such as by a constructed barrier such as a wall, or as otherwise determined by the director.

(b) A farmer's market may be a temporary use of land, including but not limited to tables, tents or vehicles, or may be a building or structure, or a combination of any.

(c) The total floor area of a commercial agricultural structure shall include the floor area of the structure, areas used for indoor or outdoor seating, dining or retail activities, restrooms except as provided by subsection 12-102-6(d), and any kitchen facility that prepares food for sale in the commercial agricultural structure, but shall not include areas used for parking, or facilities used for agricultural product processing or production.

(d) If an existing, permitted accessory agricultural structure contains a restroom that was justified by and approved with a farm plan, such restroom may be used by the patrons of a commercial agricultural structure, and shall not count toward the total floor area of the commercial agricultural structure. (Auth: HRS Chapter 91-2, §§205-2, 205-4.5 and 205-12; MCC Chapter 19.30A; Maui County Charter §8-8.3) (Imp: HRS Chapter 91-2, §§205-2, 205-4.5 and 205-12; MCC Chapter 19.30A; Maui County Charter §8-8.3)

§12-102-7 Open land recreation. (a) Open land recreation, pursuant to subsection 19.30A.050(B)(10), Maui County Code, and parks for public use, pursuant to subsection 19.30A.050(B)(12), Maui County Code, shall be considered accessory to any of the principal uses allowed pursuant to subsection 19.30A.050(A), Maui County Code. The director shall have the discretion to determine whether any structures related to open land recreation are necessary and appropriate to conduct such uses and whether such structures may be allowed without a special use permit pursuant to section 19.30A.060, Maui County Code.

(b) Any open land recreation conducted as an accessory use that also includes a component that is a special use pursuant to section 19.30A.060, Maui County Code, such as a guided tour that includes thrill rides such as a zipline, bungee jumping, or guided or unguided self-driven ATV rental, shall be required to obtain a special use permit pursuant to section 19.30A.060, Maui County Code. (Auth: HRS Chapter 91-2, §§205-2, 205-4.5 and 205-12; MCC Chapter 19.30A; Maui County Charter §8-8.3) (Imp: HRS Chapter 91-2, §§205-2, 205-4.5 and 205-12; MCC Chapter 19.30A; Maui County Charter §8-8.3)

§12-102-8 Repealed.

§12-102-9 Repealed.

§12-102-10 Repealed.

§12-102-11 Appeal of decision. The approval or denial of a decision made by the director may be appealed to the Maui County board of variances and appeals pursuant to chapter 19.520, Maui County Code.” (Auth: HRS Chapter 91-2, §§205-2, 205-4.5 and 205-12; MCC Chapter 19.30A; Maui County Charter §8-8.3) (Imp: HRS Chapter 91-2, §§205-2, 205-4.5 and 205-12; MCC Chapter 19.30A; Maui County Charter §§8-8.3, 8-8.7)

NOTE: Any farm plan in effect prior to the effective date of these rules shall remain in effect; however, a declaration pursuant to these rules may be used to replace the requirements of such farm plan.