

ORDINANCE NO. _____

BILL NO. _____

A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8 OF THE KAUA‘I COUNTY
CODE 1987 “THE COMPREHENSIVE ZONING ORDINANCE”
(DENSITY IN THE AGRICULTURE DISTRICTS)

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA‘I, STATE
OF HAWAI‘I:

SECTION 1. Findings and Purpose:

The Constitution of the State of Hawai‘i has articulated the importance of conserving and protecting agricultural lands, promoting increased agricultural self-sufficiency, and ensuring the availability of agriculturally suitable lands. The purpose of this Bill is to honor this Constitutional mandate to bring about long term policies to manage and maintain the viability of agricultural land. The bill further seeks to establish the simple premise that the subdivision of agricultural lands should be for agricultural purposes and that subdivision for other purpose should entail rezoning consistent with the General Plan and related Community Development Plans.

First, it is increasingly apparent that more stringent controls on the use of agricultural land are required to ensure the viability of agricultural production in the County. With the passage of time, some of the assumptions underlying past legislation governing the use of agricultural lands, such as Hawai‘i Revised Statutes (HRS) chapter 205, have changed or new circumstances have arisen that demonstrate HRS chapter 205, as currently drafted and executed, cannot meet the concerns of the County regarding the use, preservation, and protection of agricultural lands for agricultural purposes.

Second, the public record contains numerous references to problems and inconsistencies in the regulation of agricultural lands in the County, particularly the proliferation of “agricultural condominiums” on agricultural land and the speculative nature of investing in Agricultural zoned land to realize a profit through luxury home development which in nature and price run counter to the purpose of agriculture zoned land.

Third, the proliferation of agricultural condominiums has led to development in lands never intended for such densities and a sprawling of development, all of which overtaxes the County’s infrastructure in terms of roads, water, wastewater and other services.

Fourth, the County Council believes that the preservation and protection of agricultural land is of sufficient concern to merit legislation that allows for greater restrictions on the number of dwellings on agricultural land.

SECTION 2. The Section 8-7.5 of the Kaua‘i County Code is amended to read as follows:

“Sec. 8-7.5 Permitted Residential Densities.

[Permitted residential densities shall be calculated as follows:]

(1) For parcels in existence as of the effective date of this ordinance, permitted residential densities shall be as follows:

[~~(1)~~](A) One (1) dwelling unit for each parcel one (1) acre or larger.

[~~(2)~~](B) One (1) additional dwelling unit for each additional three (3) acres in the same parcel, provided that no more than five (5) dwelling units may be developed on any one (1) parcel.

[~~(3)~~](C) A parcel or contiguous parcels in common ownership of record existing prior to or on September 1, 1972, which is smaller than one (1) acre, may develop one (1) dwelling unit.

(2) For lots resulting from the subdivision of land in the agriculture district that receives final subdivision approval after the effective date of this ordinance, the permitted residential density shall be one (1) dwelling unit for each lot.”

SECTION 3. Severability. If any provision of this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared to be severable.

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

INTRODUCED BY:

TIM BYNUM

Date of Introduction:

Līhu‘e, Kaua‘i, Hawai‘i