

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

BILL NO. \_\_\_\_\_

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

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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 development on agricultural lands should be for agricultural purposes and that development 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 “gentlemen farm estates” 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 subdivisions 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 review, public comment and conditioning of houses whose building footprint exceeds a certain square footage.

SECTION 2. Section 8-7.2 of the Kaua‘i County Code is amended to read as follows:

“Sec. 8-7.2 Generally Permitted Uses And Structures.

The following uses and structures are permitted in agriculture districts:

- (1) Accessory structures and uses
- (2) Aquaculture
- (3) Diversified agriculture
- (4) Forestry
- (5) Grazing
- (6) Historic sites
- (7) Intensive agriculture
- (8) Livestock, poultry, and piggeries, except as provided in Sec. 8-7.3
- (9) Minor food processing related to agricultural products
- (10) Orchards and nurseries
- (11) Outdoor recreation
- (12) Pet keeping and raising, except as provided in Sec. 8-7.3
- (13) Public parks and monuments
- (14) Resource management
- (15) [Single family detached dwellings] Farm dwellings where the building envelope for the dwelling, garage, lanai, deck or any other improvement, excluding a garage, used in connection with the farm dwelling does not exceed 2,500 square feet
- (16) Specialized agriculture
- (17) Undeveloped campgrounds
- (18) Warehousing, storage and packing of plant products
- (19) Wildlife management”

SECTION 3. Section 8-7.3 of the Kaua‘i County Code is amended to read as follows:

“Sec. 8-7.3 Uses And Structures That Require A Use Permit.

(a) The following uses and structures in agricultural districts shall require a use permit:

- (1) Animal hospitals
- (2) Cemeteries
- (3) Churches, temples and monasteries
- (4) Commercial recreation
- (5) Construction and worker temporary housing
- (6) Development campgrounds
- (7) Golf courses
- (8) Mineral extraction and quarries
- (9) Pet keeping and raising proposed within five hundred (500) feet of any Residential District

- (10) Poultry and piggeries when to be located within three thousand (3000) feet of any Use District
- (11) Private and public utility facilities
- (12) Schools and day care centers
- (13) Transportation terminals
- (14) Farm dwellings where the building envelope for the dwelling, lanai, deck or any other improvement, excluding a garage, used in connection with the farm dwelling exceeds 2,500 square feet
- (15) Any other use or structure which the Planning Director finds to be similar in nature to those listed in this section and appropriate to the District.”

SECTION 4. Section 8-8.2 of the Kaua‘i County Code is amended to read as follows:

“Sec. 8-8.2 Generally Permitted Uses And Structures.

- (1) Accessory uses and structures
- (2) Day-use areas
- (3) Diversified agriculture
- (4) Livestock and grazing, except as provided in Sec. 8-8.3
- (5) Outdoor recreation
- (6) Parks and monuments
- (7) Private recreation areas
- (8) Resource management
- (9) Single family detached dwellings and farm dwellings constructed within the State Land Use Agricultural District where the building envelope for the dwelling, lanai, deck or any other improvement, excluding a garage, used in connection with the farm dwelling does not exceed 2,500 square feet
- (10) Undeveloped campgrounds”

SECTION 5. Section 8-8.3 of the Kaua‘i County Code is amended to read as follows:

“Sec. 8-8.3 Uses And Structures For Which A Use Permit Is Required.

- (1) Communications facilities
- (2) Day care centers
- (3) Developed campgrounds
- (4) Home businesses
- (5) Intensive agriculture
- (6) Livestock and grazing within the Urban District as established by the State Land Use Commission
- (7) Organized recreation camps
- (8) Outdoor recreation concessions
- (9) Police and fire facilities
- (10) Quarries

- (11) Recreation vehicle parks
- (12) Religious facilities
- (13) Utility installations
- (14) Single family detached dwellings and farm dwellings constructed within the State Land Use Agricultural District where the building envelope for the dwelling, lanai, deck or any other improvement, excluding a garage, used in connection with the farm dwelling does not exceed 2,500 square feet
- (15) Any other use or structure which the Planning Director finds to be similar in nature to those listed in this Section and appropriate to the District.”

SECTION 6. 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 7. This Ordinance shall take effect upon its approval.

INTRODUCED BY:

TIM BYNUM

Date of Introduction:

Līhu‘e, Kaua‘i, Hawai‘i