

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

AN ORDINANCE AMENDING CHAPTER 25 (ZONING CODE) OF THE HAWAII COUNTY CODE RELATED TO AGRICULTURAL TOURISM.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAII:

SECTION 1. Purpose and Findings. The Council finds that the Zoning Code does not specifically address the permissibility of agricultural tourism or its impacts in the various zoning districts. Following the demise of the sugar plantations and mills a more diversified agricultural base consisting of smaller agribusiness and family operated farms, ranches, and agricultural products processing facilities is evolving in the County of Hawaii. These operations are offering a wide variety of specialized products, produce and exotic flowers via local vending opportunities as well as through regional, national, and international wholesale distributors and the Internet.

The visitor industry, or tourism, continues to grow as a major element in the economy of Hawaii County. With this growth in the visitor industry comes an increased market for tours showcasing the uniqueness of farming, ranching and agricultural products processing in Hawaii. A viable inventory of agricultural tourism operations in the County of Hawaii broadens the range of interests within the County attracting additional and returning visitors.

A wide scale of agricultural tourism activities already exists on the island of Hawaii, sometimes resulting in an adverse impact on surrounding properties and resources. The failure to define and regulate agricultural tourism in Hawaii County has already resulted in complaints from surrounding property owners and residents due to excessive noise and unsafe traffic conditions.

The Council, in recognition of agricultural tourism as a viable element of the visitor industry and as an expanding alternate income resource for local farmers and ranchers, finds it necessary and appropriate to define agricultural tourism and to establish guidelines to manage its impacts in a manner consistent with the social, environmental, physical, and economic goals and policies of the General Plan for the County of Hawaii.

SECTION 2. Chapter 25 (Zoning Code) of the Hawaii County Code, is amended as follows:

The following definitions are added and renumbering of the definitions following each addition as necessary.

**Section 25-1-5(b). Definitions.**

(4) “Agricultural activities” means income producing activities or uses as characterized by the cultivation of crops, including but not limited to flowers, vegetables, foliage, fruits, forage, and timber; and farming or ranching activities or uses related to animal husbandry, aquaculture, or game and fish propagation.

(7) “Agricultural Tourism” means visitor-related commercial activities or periodic special events designed to promote agricultural activities being conducted on a working farm, ranch or agricultural products processing facility.

The following sections are added:

**Section 25-2-71. Applicability; plan approval required.**

(g) Plan approval shall be required for the establishment of any agricultural tourism activity as permitted under section 25-4-15(b).

**Section 25-2-75. Plan approval application requirements for agricultural tourism.**

In addition to the application requirements for plan approval contained in section 25-2-72, an application for plan approval for agricultural tourism operations shall include sufficient information to ensure the following provisions are met:

- (1) Adequate off street parking, loading/unloading, and turn-around space to accommodate all specified tour transportation modes shall be provided and shown on the site plan;

- (2) The subject property must have an existing legal access to a public highway, and driveways shall meet applicable county or state standards;
- (3) New and existing facilities to be utilized principally for the agricultural tourism activity shall be clearly indicated on the plot plan and shall not exceed 1,000 square feet in total area; and
- (4) Proof, acceptable to the Director, of income from agricultural activities and/or agricultural products processing as required under section 25-4-15(d)(1).

Bracketed portions of the following sections are deleted and the underlined portions are added.

**Section 25-2-175~~76~~. Action on plan approval application.**

- (a) The director may issue plan approval subject to conditions or changes in the proposal which, in the director's opinion, are necessary to carry out and further the purposes of this chapter and the considerations contained in section 25-2-176~~77~~.
  - (b) The director may only issue plan approval for a bed and breakfast establishment if the proposed use meets all of the conditions contained in sections 25-2-176~~77~~ and 25-4-7, and if the operator of the bed and breakfast establishment provides all verification required under section 25-2-73.
  - (c) The director may only issue plan approval for a telecommunication antenna or tower if the proposed use meets all of the conditions contained in sections 25-2-176~~77~~ and 25-4-12, and if the applicant provides all verification required under section 25-2-74.
  - (d) The director may only issue plan approval for a temporary model home or real estate office if the proposed use meets all of the conditions in section 25-2-176~~77~~ and 25-4-8.
- Section 25-2-176~~77~~. Review criteria and conditions of approval.**
- Section 25-2-177~~78~~. Construction in conformity with plan approval.**
- Section 25-2-178~~79~~. Appeal of a plan approval decision.**

The following section is added:

**Section 25-4-15. Agricultural tourism**

- (a) Agricultural tourism is permitted as an accessory use to agricultural processing facilities

in the CG, CDH, CV, CN, ML, MG, and MCX districts.

- (b) Agricultural tourism is permitted as an accessory use to agricultural activities and agricultural processing facilities in the A, FA, 1A, RA, and APD districts, subject to plan approval and in conformance with sec. 25-4-15(d).
- (c) Agricultural tourism activities in A, FA, 1A, RA, and APD districts that do not conform to sec. 25-4-15(d) shall require a special permit in the state land use agricultural or rural districts, or a use permit in the state land use urban district.
- (d) Agricultural tourism operations shall comply with the following regulations:
  - (1) The agricultural activity or agricultural products processing facility must have a minimum of \$10,000.00 in verifiable gross sales, exclusive of any income from agricultural tourism activities or any other non-agricultural activities, for the year preceding the commencement of the agricultural tourism activity or, in the case of a new agricultural activity or agricultural products processing facility, provide evidence to the Planning Director's satisfaction that a verifiable investment has been made in the planning of crops, acquisition of livestock, or construction of agricultural products processing facilities, that the agricultural activity or agricultural processing facility will achieve the minimum required gross sales;
  - (2) Agricultural tourism activities shall not commence prior to 8:00 AM or continue past 6:00 PM daily;
  - (3) The agricultural tourism operation shall have a maximum of 30,000 visitors annually;
  - (4) All visitor and employee parking, loading/unloading, and vehicular turnaround areas shall be located off street;
  - (5) The total area of spaces, including covered decks, lanais, tents or canopies, and gazebos, whether newly constructed or within existing structures, to be utilized principally for the agricultural tourism activity shall not exceed 1,000 square feet;

- (6) Gross revenues from agricultural tourism activities shall not exceed 50% of the gross revenues, including those from adjacent parcels under the same ownership, of the subject agricultural activity and/or agricultural products processing facility, except where it can be demonstrated to the Director's satisfaction that the gross agricultural products/processing income is less than 50% of the total income due to unforeseen environmental or economic conditions for not more than two (2) consecutive years.
- (7) Incidental sales of non-agricultural promotional items, including but not limited to, coffee mugs, tee shirts, etc., shall be permitted provided:
- (A) The items are specifically promotional to the site's agricultural activities and/or products.
- (B) The gross revenues from the sale of non-agricultural promotional items shall be included with the gross revenues from the agricultural tourism activities.
- (8) Agricultural tourism in the A, FA, IA, and RA districts shall not include weddings, parties, restaurants, schools, catered events, or overnight accommodations, unless allowed by special permit:
- (9) Annual events that promote an agricultural industry or agricultural area, and organized on a not-for-profit basis, are permitted in the A, FA, IA, RA, and APD districts without plan approval.
- (e) Any agricultural tourism activity that is not in compliance with the regulations under Section 25-4-15(d) or appropriately permitted as provided by Section 25-4-15(c) shall be considered illegal under this chapter, unless otherwise noted herein.
- (f) Any agricultural tourism activity in the A, IA, FA, RA, or APD districts, existing prior to the effective date of this section and conforming to the standards contained in Section 25-4-15(d) and that has not received Plan Approval may continue such use for twelve (12) months following the effective date of this ordinance. After this date, continued use without having received plan approval shall be considered illegal under this chapter.

- (g) ~~Any agricultural tourism activity in the A, IA, FA, RA, or APD districts, that does not conform to the standards in section 25-4-15(d), and which has not previously received a special permit or use permit for such activity, may continue such use for 12 months following the effective date of this ordinance, and, if an application for a special permit or a use permit has been filed, may continue such use until final action has been taken on the application. After twelve months from approval of this ordinance, or denial of the application, continued use shall be considered illegal under this chapter.~~
- (h) ~~Any agricultural tourism activity that is currently operated under a special permit may continue to operate under the terms and conditions of the special permit, or apply to void the special permit and, if the permit is voided, operate under the standards of sec. 25-4-15(d).~~

The permitted uses for the following sections are amended by the addition of "Agricultural tourism" and the renumbering of those permitted uses following each addition:

**Section 25-5-52. Permitted uses.**

- (a) The following uses shall be permitted in the RA district:
- (3) ~~Agricultural tourism as permitted under section 25-4-15.~~

**Section 25-5-62. Permitted uses.**

- (a) The following uses shall be permitted in the FA district:
- (2) ~~Agricultural tourism as permitted under section 25-4-15.~~

**Section 25-5-72. Permitted uses.**

- (a) The following uses shall be permitted in the A district:
- (3) ~~Agricultural tourism as permitted under section 25-4-15.~~

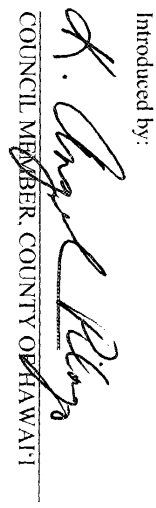
**Section 25-5-82. Permitted uses.**

- (a) The following uses shall be permitted in the IA district:
- (3) ~~Agricultural tourism as permitted under section 25-4-15.~~

SECTION 3. In the event that any portion of the ordinance is declared invalid, such invalidity shall not affect other parts of this ordinance.

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

Introduced by:   
COUNCIL MEMBER, COUNTY OF HAWAII

Introduced by:   
COUNCIL MEMBER, COUNTY OF HAWAII

Hilo, Hawaii  
Date of Introduction:  
Date of 1st Reading:  
Date of 2nd Reading:  
Effective Date:

REFERENCE: Comm. 426