

OFFICE OF
THE COUNTY CLERK
COUNTY OF KAUAI

NOTICE OF PUBLICATION AND NOTICE OF PUBLIC HEARING

Notice is hereby given that the Council of the County of Kaua'i will hold a public hearing on Wednesday, February 24, 2021, at 1:30 p.m., or soon thereafter, at the Council Chambers, 4396 Rice Street, Room 201, Historic County Building, Lihu'e, on the following:

Bill No. 2804

A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO USES IN THE AGRICULTURE ZONING DISTRICT

The purpose of this Bill is to amend Chapter 8, Kaua'i County Code 1987, as amended, by amending Section 8-1.5, Definitions, and Table 8-2.4, Table of Uses, to encourage and allow a multitude of agriculture and agriculture-related activities in the Agriculture Zoning District. Bill No. 2804 provides definitions for the terms: Agricultural Retail Stand, Botanical Garden, Farmers Market, Food Processing and Packaging of agricultural products, Restaurant and food services, and Zoological Garden. Table 8-2.4 Table of Uses is amended to outright permit agriculture retail stands and food processing and packaging of agricultural products in the Agriculture District. Additional amendments to the Table of Uses clarifies that a Use Permit is required for botanical and zoological gardens, farmers markets, and restaurant and food services in the Agriculture District.

All interested persons who wish to present their comments may do so at the public hearing. Written testimony prior to the hearing would be appreciated. Written testimony can be submitted to the Office of the County Clerk, Council Services Division by mail, facsimile, or via E-mail to counciltestimony@kauai.gov. Copies of the Bill are available at the Office of the County Clerk, Council Services Division.

(The Council Committee or Council may amend this Bill at their subsequent meetings. Meeting notices are posted at least six (6) days in advance at the County Clerk's Office and the public may also testify at any of these meetings.)

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that the foregoing Bill No. 2804 was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on January 27, 2021, by the following vote:

AYES:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL - 7,
NOES:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Lihu'e, Hawai'i
January 28, 2021

/s/ Jade K. Fountain-Tanigawa
County Clerk, County of Kaua'i

NOTE: IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF THE COUNTY CLERK, COUNCIL SERVICES DIVISION AT (808) 241-4188 OR COKCOUNCIL@KAUAI.GOV AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST.

UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.

(One publication – The Garden Island – February 7, 2021)

**A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8,
KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO
USES IN THE AGRICULTURE ZONING DISTRICT**

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. Findings and purpose. The Council finds that the various lock-down measures in response to the Novel Coronavirus Disease 2019 (COVID-19) pandemic have halted economic activity in certain sectors and harshly disrupted others. Families who have lost employment income because of the COVID-19 pandemic have struggled to provide the basic needs of shelter and food.

The Council also finds that Kauai may experience further impacts as a result of steps taken by Young Brothers Hawaii to address financial challenges brought on by a 30% drop in cargo volumes due to the COVID-19 pandemic.

The Council further finds that nonprofit organizations and community members islandwide, including the County of Kauai and several business entities, have stepped up in many ways to help individuals and families in need and to provide and share a variety of resources at no cost to the recipient. The agriculture industry and agriculture community have been a major component and partner in efforts to provide families with food and fresh produce.

The Council finally finds that agriculture and agriculture-related activities must remain viable and continue to be a source towards accomplishing food security for the County of Kauai.

The purpose of this Ordinance is to amend the Comprehensive Zoning Ordinance to encourage and allow a multitude of agriculture and agriculture-related activities in the Agriculture Zoning District.

SECTION 2, Chapter 8, Kauai County Code 1987, as amended, is hereby amended by amending Sec. 8-1.5 Definitions by inserting, alphabetically, definitions for the following terms:

“Agricultural Retail Stand’ means a building or structure, not to exceed a gross floor area of 1,000 square feet, from which agricultural products produced on the subject property or the associated farm are sold.

‘Botanical Garden’ means a public or private facility used for the commercial demonstration and observation of the cultivation of flowers, fruits, vegetables, or ornamental plants for a fee.

‘Farmers Market’ means the offering of fresh agricultural products for sale by multiple farmers or farms directly to the consumer at an open-air or enclosed area.

'Food Processing and Packaging of agricultural products' means facilities where raw and/or refined agricultural products are made suitable for human consumption and prepared for transport and sale.

'Restaurant and food services' means a retail business selling ready-to-eat food and/or beverages for on or off-premise consumption. These include eating establishments where customers are served from a walk-up ordering counter for either on or off-premise consumption ("counter service") and establishments where customers are served food at their tables for on premise consumption ("table service") that may also provide food for take-out, but does not include drive through services, which are separately defined and regulated.

'Zoological Garden' means a parklike area in which live animals are kept in large enclosures for public exhibition for a fee.'

SECTION 3. Chapter 8, Kaua'i County Code 1987, as amended, is hereby amended by amending Table 8-2.4 – Table of Uses, in pertinent part, as follows:

"TABLE 8-2.4 Table of Uses

Sec.	USE	ZONING DISTRICT									
		Residential		RR	Commercial		Industrial		AG	O	
		R-1 to R-6	R-10 to R-20		CN	CG	IL	IG			
8-2.4(q)(1)	Accessory structures and uses									P	
8-2.4(q)(2)	<u>Agriculture, Diversified and Specialized; and Nurseries</u>									<u>P</u>	
8-2.4(q)(3)	<u>Agriculture retail stand</u>									<u>P₂</u>	
[8-2.4(q)(2)] 8-2.4(q)(4)	Aquaculture									P	
[8-2.4(q)(3)] 8-2.4(q)(5)	Diversified Agriculture									P	
8-2.4(q)(6)	<u>Farm Dwelling</u>									<u>P</u>	
8-2.4(q)(7)	<u>Food processing and packaging of agriculture products</u>									<u>P₂</u>	
[8-2.4(q)(4)] 8-2.4(q)(8)	Forestry									P	
[8-2.4(q)(6)] 8-2.4(q)(9)	Historic sites									P	
[8-2.4(q)(7)] 8-2.4(q)(10)	Intensive agriculture									P	
[8-2.4(q)(8)]	[Livestock, poultry, and piggeries, except as provided in Sec. 8-2.4(r)(11)]									[P]	
8-2.4(q)(11)	<u>Livestock and grazing</u>									<u>P</u>	
[8-2.4(q)(10)] 8-2.4(q)(12)	Orchards									P	
[8-2.4(q)(11)] 8-2.4(q)(13)	Outdoor recreation									P	

Sec.	USE	ZONING DISTRICT									
		Residential		RR	Commercial		Industrial		AG	O	
		R-1 to R-6	R-10 to R-20		CN	CG	IL	IG			
[8-2.4(q)(12)] 8-2.4(q)(14)	Pet keeping and raising except as provided in Sec. 8-2.4(r)(12)									P	
8-2.4(q)(15)	<u>Piggery, except as provided in Sec. 8-2.4(r)(13)</u>									<u>P</u>	
8-2.4(q)(16)	<u>Poultry Raising, except as provided in Sec. 8-2.4(r)(14)</u>									<u>P</u>	
[8-2.4(q)(13)] 8-2.4(q)(17)	Public parks and monuments									P	
[8-2.4(q)(14)] 8-2.4(q)(18)	Resource Management									P	
[8-2.4(q)(15)] 8-2.4(q)(19)	Single family <u>attached</u> and detached dwellings									P	
[8-2.4(q)(16)] 8-2.4(q)(20)	Solar energy facilities placed within land with soil classified by the State of Hawai'i Land Study Bureau's detailed land classification as overall (master) productivity rating B, C, D, or E; those facilities placed within land with soil classified as overall productivity rating class B and C shall not occupy more than ten percent (10%) of the acreage of the parcel, or twenty (20) acres of land, whichever is less									P	
[8-2.4(q)(17)]	[Specialized Agriculture]									[P]	
[8-2.4(q)(18)] 8-2.4(q)(21)	Undeveloped campgrounds									P	
[8-2.4(q)(19)] 8-2.4(q)(22)	Warehousing, storage, and packing of plant products									<u>P</u>	
[8-2.4(q)(20)] 8-2.4(q)(23)	Wildlife management									P	
8-2.4(r)(1)	Animal hospitals									U	
8-2.4(r)(2)	<u>Botanical and Zoological gardens</u>									<u>U</u>	
[8-2.4(r)(2)] 8-2.4(r)(3)	Cemeteries									U	
[8-2.4(r)(3)] 8-2.4(r)(4)	Churches, temples and monasteries									U	
[8-2.4(r)(4)] 8-2.4(r)(5)	Commercial Recreation									U	
[8-2.4(r)(5)] 8-2.4(r)(6)	Construction and worker temporary housing									U	
[8-2.4(r)(6)] 8-2.4(r)(7)	Development campgrounds									U	
[8-2.4(r)(7)] 8-2.4(r)(8)	Farm worker housing									U	
[8-2.4(r)(8)] 8-2.4(r)(9)	<u>Farmers Markets</u>									<u>U</u>	
[8-2.4(r)(8)] 8-2.4(r)(10)	Golf courses									U	
[8-2.4(r)(9)] 8-2.4(r)(11)	Mineral extraction and quarries									U	
[8-2.4(r)(10)] 8-2.4(r)(12)	Pet keeping and raising proposed within five hundred (500) feet of any Residential District									U	

Sec.	USE	ZONING DISTRICT								
		Residential		RR	Commercial		Industrial		AG	O
		R-1 to R-6	R-10 to R-20		CN	CG	IL	IG		
8-2.4(r)(13)	<u>Piggery, when to be located within three thousand (3,000) feet of any Use District</u>									U
[8-2.4(r)(11)] 8-2.4(r)(14)	Poultry [and piggeries] <u>Raising</u> , when to be located within three thousand (3,000) feet of any Use District									U
[8-2.4(r)(13)] 8-2.4(r)(15)	Private and public utilities facilities									U
8-2.4(r)(16)	<u>Restaurants and food services</u>									U ₂
8-2.4(r)(17)	<u>Retail Sales</u>									U
[8-2.4(r)(13)] 8-2.4(r)(18)	Schools and day care centers									U
[8-2.4(r)(14)] 8-2.4(r)(19)	Transportation terminals									U
[8-2.4(r)(15)] 8-2.4(r)(20)	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									U

Notes:

- 1 Requirements for Additional Dwelling Units (ADU) are contained in Article 15.
- 2 Only produce raised or grown on the property and/or associated farm or value-added goods derived primarily from produce or livestock raised on the subject property and/or associated farm.

KEY: U = Use Permit Required
P = Permitted Use or Structure (Zoning Permit may be required)”

SECTION 3. If any provision of this ordinance or application thereof to any person, persons, or circumstance is held invalid, the invalidity does not affect the 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 severable.

SECTION 4. Ordinance material to be repealed is bracketed. New ordinance material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Kaua’i County Code 1987, as amended, the brackets, bracketed material, and underscoring shall not be included.

SECTION 5. This ordinance shall take effect upon its approval.

Introduced by: /s/ ARRYL KANESHIRO

DATE OF INTRODUCTION:

January 27, 2021

Lihu’e, Kaua’i, Hawai’i

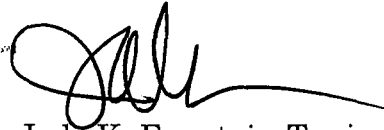
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CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2804, which on first reading was ordered to print by the Council of the County of Kaua'i at its meeting held on January 27, 2021, by the following vote:

FOR PASSAGE:	Carvalho, Chock, Cowden, DeCosta, Evslin, Kualii, Kaneshiro	TOTAL – 7,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Lihu'e, Hawai'i
January 28, 2021



Jade K. Fountain-Tanigawa
County Clerk, County of Kaua'i