

NOTICE OF PUBLICATION AND NOTICE OF PUBLIC HEARING 18 SEP 13 AM 10:09

Notice is hereby given that the Council of the County of Kaua'i will hold a public hearing on Wednesday, October 10, 2018, at 1:30 p.m., or soon thereafter, at the Council Chambers, 4396 Rice Street, Room 201, Historic County Building, Līhu'e, on the following:

Bill No. 2720

A BILL FOR AN ORDINANCE TO AMEND CHAPTER 23, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO SUNSHINE MARKETS

This Bill proposes to amend Section 23-3.8, Kaua'i County Code 1987, as amended, relating to The Sunshine Market, to expand the list of agricultural products allowed to be sold at Sunshine Markets. Agricultural products grown, raised, produced, or manufactured on Kaua'i or Ni'ihau proposed to be added include: certified mushrooms, red meat (beef, sheep, goat, deer, bison, eland), white meat (pork, rabbit, frog), fowl eggs, "in season" shellfish, and freshly caught "in season" whole fish. Value-added products is clarified to mean "food-based" products. The Office of Economic Development is authorized to promulgate rules and regulations regarding Sunshine Market vendors, agricultural products, and whole fish.

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 its 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. 2720 was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on September 12, 2018, by the following vote:

| | | |
|-----------------------|---|------------|
| AYES: | Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo | TOTAL - 7, |
| NOES: | None | TOTAL - 0, |
| EXCUSED & NOT VOTING: | None | TOTAL - 0. |
| RECUSED & NOT VOTING: | None | TOTAL - 0. |
| Līhu'e, Hawai'i | /s/ Jade K. Fountain-Tanigawa | |
| September 13, 2018 | County Clerk, County of Kaua'i | |

NOTE: SPECIAL ACCOMMODATIONS AND SIGN LANGUAGE INTERPRETER AND INTERPRETERS FOR NON-ENGLISH SPEAKING PERSONS ARE AVAILABLE UPON REQUEST FIVE (5) DAYS PRIOR TO THE MEETING DATE, TO THE COUNTY CLERK, 4396 RICE STREET, SUITE 209, LĪHU'Ē, KAUAI, HAWAII, 96766. TELEPHONE NO. (808) 241-4188. FACSIMILE NO. (808) 241-6349.

(One publication – The Garden Island – September 19, 2018)

**A BILL FOR AN ORDINANCE TO AMEND CHAPTER 23,
KAUA'I COUNTY CODE 1987, AS AMENDED,
RELATING TO SUNSHINE MARKETS**

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

SECTION 1. Findings and purpose. The Council of the County of Kaua'i finds that the ongoing success of the Sunshine Markets, in encouraging the cultivation and marketing of Kaua'i and/or Ni'ihau-grown produce, honey, and value-added food-based products made from fresh locally grown produce can be expanded by allowing vendors at the Sunshine Markets to sell what they locally grow, raise, produce, or manufacture, such as red meat (beef, sheep, goat, deer, bison, eland), white meat (pork, rabbit, frog), fowl eggs, processed meats, and "in season" shellfish, as well as "in season" whole fish freshly caught by local fishermen. This increase in profitability of farms, farmers, ranchers, fishermen, and value-added producers will strengthen the market for local agriculture and boost Kaua'i's food security.

SECTION 2. Chapter 23, Section 23-3.8, Kaua'i County Code 1987, as amended, is hereby amended to read as follows:

"Sec. 23-3.8 The Sunshine Market; Site Of.

(a) Purpose. The Sunshine Markets are permitted to operate at sites provided by the County so that [farm produce grown on Kaua'i] agricultural products grown, raised, produced, or manufactured on Kaua'i or Ni'ihau, such as farm produce, certified mushrooms, red meat (beef, sheep, goat, deer, bison, eland), white meat (pork, rabbit, frog), fowl eggs, processed meats, "in season" shellfish, value-added food-based products, locally produced honey, [and] live, farm-raised fish grown by Kaua'i farmers, and "in season" whole fish caught from local waters in and surrounding the islands of Kaua'i and Ni'ihau can be made available to the public at reduced prices.

(b) Definitions. When used in this Section, the following words or phrases shall have the meaning given in this subsection unless it shall be apparent from the context that a different meaning is intended:

"Agricultural products" means those products produced from conducting agricultural activities including livestock products, poultry products, or apiary, horticultural, or floricultural products, or the planting, cultivating, and harvesting of crops, or the farming or ranching of any plant or animal species in a controlled salt, brackish, or freshwater environment.

“Farm produce” means vegetables, fruits, flowers, nuts, and other agricultural products grown on [Kaua‘i.] Kaua‘i or Ni‘ihau.

“In season” means agricultural products that are available and ready for harvesting, eating, or other use, or legally permitted to be caught or hunted during a specified period.

“Locally Produced Honey” means honey that has been collected from beehives on Kaua‘i.

“Recyclable paper bag” means a bag that meets all of the following requirements: (1) contains no old growth fiber; and (2) is one hundred percent (100%) recyclable overall and contains a minimum of forty percent (40%) post-consumer recycled content.

“Reusable bag” means a bag with handles that is specifically designed and manufactured for multiple reuse and is made of cloth or other machine washable fabric and/or is made of durable material.

“Value-added food-based products” shall mean products made of fifty percent (50%) raw agricultural commodities/ingredients grown on the vendor’s premises or certified as a [“Kaua‘i Grown” product.] product grown on Kaua‘i or Ni‘ihau. The value of labor, intellectual property, packaging, or other factors or components used in the final value-added food-based product shall not be included in the aforementioned fifty percent (50%) requirement.

(c) The Director of the Office of Economic Development is authorized to select the Sunshine Market sites.

(1) The Director of the Office of Economic Development, in consultation with the Department of Parks and Recreation, is authorized to promulgate rules and regulations relating to the area, location, number of farmers, farm produce, certified mushrooms, red meat (beef, sheep, goat, deer, bison, eland), white meat (pork, rabbit, frog), fowl eggs, processed meats, shellfish, value-added food-based products, locally produced honey, [and] live, farm-raised fish, and whole fish that may be sold, insurance, cleanup, sanitation, hours of operation, traffic control, and such other safety and welfare conditions. This shall be in addition to any other relevant requirements of State law.

(2) The Director of the Office of Economic Development may delegate the management and regulation of any Sunshine Market to a representative of the vendors participating in that Sunshine Market, a representative of the Office of Economic Development, or suitable non-profit entity. In the event of any violation of any rule or regulation, the Director may suspend or terminate the operations of a Sunshine Market or the vendor(s) for an appropriate length of time, depending on the severity and frequency of the violation.

(d) Prior to selling any product allowed under Section 23-3.8(c), each vendor shall:

(1) Sign an indemnification agreement developed by the County Attorney holding the County harmless and releasing it from all liability.

(2) Obtain a Sunshine Market permit issued by the Director of the Office of Economic Development or designee agreeing to abide by the requirements set forth in this Section and any rules promulgated for the Sunshine Markets.

(e) In addition to the aforementioned requirements, prior to selling any Value-Added Product at any Sunshine Market, a Sunshine Market vendor shall also:

(1) Become a qualified member of the "Kaua'i Made" program and retain that status as long as the vendor sells a Value-Added Product(s) at the Sunshine Markets.

(2) Submit to the Office of Economic Development copies of permits establishing that any Value-Added Food-Based Product requiring a kitchen will be produced in a certified kitchen as specified by State and Federal laws and labeled as required by State and Federal laws.

(3) Display all required permits and price lists at vendor's Sunshine Market booth.

(4) Shall comply with any and all requirements of the State Department of Health for retail sales without any obligation on the part of the County to assist such vendor or adapt the markets as a result of the sale of processed products.

(5) Provide the County a certificate of insurance establishing that the vendor is carrying product liability insurance in the amount of one million dollars (\$1,000,000) naming the County as an additional insured to the policy. Vendors shall submit notice of renewal to the County on each anniversary of said product liability insurance policy or whenever a new product is added to the policy or upon vending of a new product in the market.

(A) The certificate of insurance shall be completed by a duly authorized representative of the insurer certifying that the liability coverage(s) is written on an occurrence form and that the coverage(s) will not be cancelled, non-renewed, or materially changed by endorsement or through issuance of other policies of insurance without thirty (30) days advance written notice to the County. All coverage required by the vendor will be primary over any insurance or self-insurance program carried by the County.

(B) Vendor shall furnish the County with original certificates and endorsements effecting required coverage(s). All certificates and endorsements are to be received and approved by the County before a Value-Added Product or locally produced honey is sold. The County reserves the right to require complete certified copies of all required insurance policies, including endorsements affecting the coverage required at any time.

(C) Failure to secure and maintain the required insurance shall be considered a major breach of the privilege of selling at the Sunshine Market. Should the County be forced to expend funds that would have been covered under the specified insurance, the vendor shall agree to reimburse the County for such funds.

(D) Vendor shall provide to the Office of Economic Development or Sunshine Market Monitor a copy of the permit holder's current driver's license and vehicle insurance card as each is renewed.

(f) A Sunshine Market Permit may be canceled or not issued for noncompliance.

(g) Vendors at the Sunshine Markets may offer recyclable paper bags and/or reusable bags for sale to customers.”

SECTION 3. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or application of the 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 within 180 calendar days after its approval.

Introduced by: /s/ DEREK S.K. KAWAKAMI
/s/ ARRYL KANESHIRO

DATE OF INTRODUCTION:

September 12, 2018

Lihu'e, Kaua'i, Hawai'i

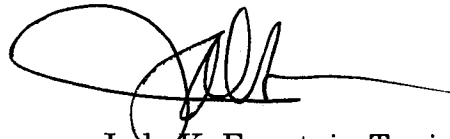
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CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2720, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on September 12, 2018, by the following vote:

| | | |
|-----------------------|---|------------|
| FOR PASSAGE: | Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo | TOTAL - 7, |
| AGAINST PASSAGE: | None | TOTAL - 0, |
| EXCUSED & NOT VOTING: | None | TOTAL - 0, |
| RECUSED & NOT VOTING: | None | TOTAL - 0. |

Līhu'e, Hawai'i
September 13, 2018



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