BILL NO. 58ORDINANCE NO. 23 60

AN ORDINANCE AMENDING CHAPTER 19, ARTICLES 1 AND 7, OF THE HAWAI'I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), RELATING TO COMMUNITY FOOD SUSTAINABILITY USE ASSESSMENTS.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI'I:

SECTION 1. Purpose. The Real Property Tax Review Working Group and Agricultural Committee report dated September 20, 2019, and the 2021 Annual Report from the Real Property Tax Board of Review both recommended revision of the agricultural use programs provided for in chapter 19, section 19-57, of the Hawai'i County Code. The purpose of this amendment is to act on the recommendations of these reports to enable the County to attain the statewide goal of doubling our food supply by 2030. This amendment will incentivize property owners to contribute to food sustainability in Hawai'i County by affording them with tax benefits.

SECTION 2. Chapter 19, article 1, section 19-2, of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended by adding a new definition to be appropriately inserted and to read as follows:

““Community food sustainability use” means the present use of agricultural or residential and agricultural zoned land on a continuous and regular basis that demonstrates the owner is engaged in agricultural activities to provide food to the community, including:

- (1) Intensive agriculture;
- (2) Orchards; or
- (3) Diversified agriculture.”

SECTION 3. Chapter 19, article 7, of the Hawai'i County Code 1983 (2016 Edition, as amended), is amended by adding a new section to be appropriately designated and to read as follows:

“Section. Community food sustainability use assessment.

- (a) Lands classified and used for farming to produce food crops, that are not dedicated to commercial agricultural use, may be assessed for real property tax purposes as established in subsection (a)(2) of this section and shall be subject to the following:

- (1) The land in community food sustainability use must be used on a continuous and regular basis to produce food for local consumption on lands zoned by the County to be in the districts of agricultural, residential and agricultural, family agricultural, intensive agricultural, and agricultural project district;
 - (2) The portion of land that is committed to specific community food production shall be assessed at 30% of the fair market value; and
 - (3) A farm dwelling site shall be assessed based on the proportional market value of the total property.
- (b) All portions of land that are not committed or used for community food sustainability shall be assessed based on the proportional market value of the total property.
- (c) Application; filings; assessment effective; renewal.
- (1) The director shall prescribe the form of the community food sustainability use application, which shall be accepted beginning September 2, 2024.
 - (2) The application for a community food sustainability use assessment must be signed by all owners of the land being assessed.
 - (3) The application for a community food sustainability use assessment shall include at least one of the following:
 - (A) A farm plan;
 - (B) Documentation of organic certification from the U.S. Department of Agriculture;
 - (C) A plan from the U.S. Department of Agriculture, Natural Resources Conservation Service;
 - (D) Documentation of food safety certification from the U.S. Department of Agriculture; or
 - (E) Receipts demonstrating an investment of a minimum of \$10,000 in farm equipment, fertilizers, or soil amendments for use on the subject property.
 - (4) If the application is approved, renewal of the application for the assessment, based upon the use requested, shall be required every five years from the initial approval date or earlier, at the discretion of the director, provided that:
 - (A) The documentation provided under subsection (c)(3) encompasses at least five years and remains in effect; and
 - (B) Documentation of annual sales or donations of food totaling a minimum of \$1,000 are provided to the director at the time of renewal. Sales or donations must be generated from the assessed property. Annual sales shall be documented through excise tax receipts. Donations of food must be to a nonprofit 501(c)(3) organization.
- (d) Deferred or rollback tax.
- (1) A deferred or rollback tax shall be imposed on the owner of the agricultural land upon any of the following events:
 - (A) The owner fails to observe any restriction, condition, or provision on the use of the land;
 - (B) The property is converted to a County zoned district other than agricultural, residential and agricultural, family agricultural, intensive agricultural, agricultural project district as a result of a petition by the owner or lessee;
 - (C) The property is subdivided into parcels of less than five acres in size; or
 - (D) A condominium property regime is declared for the property resulting in condominium units with areas less than five acres in size.


- (2) The deferred tax shall commence from the date the conversion was made retroactive to the date the agricultural use assessment was approved, but for not more than a period of two years plus the current year.
- (3) The amount of deferred taxes shall be based on the difference between the assessed market value at highest and best use and the assessed agricultural use value of the land at the tax rate applicable for the respective years, with a ten percent penalty.”

SECTION 4. New material is underscored. In printing this ordinance, the underscoring need not be included.


SECTION 5. Severability. If any provision of this ordinance, or the application thereof to any taxpayer or circumstance, is held invalid, the invalidity does not affect other provisions or applications 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 6. This ordinance shall take effect August 31, 2023.

INTRODUCED BY:



COUNCIL MEMBER, COUNTY OF HAWAI'I



COUNCIL MEMBER, COUNTY OF HAWAI'I

Hilo, Hawai'i
Date of Introduction: July 26, 2023
Date of 1st Reading: July 26, 2023
Date of 2nd Reading: August 2, 2023
Effective Date: August 31, 2023

REFERENCE Comm. 370

OFFICE OF THE COUNTY CLERK
 County of Hawai'i
 Hilo, Hawai'i

COUNTY CLERK
 COUNTY OF HAWAII

2023 AUG 16 AM 10:42

Introduced By: Heather L. Kimball and Michelle Galimba
 Date Introduced: July 26, 2023
 First Reading: July 26, 2023
 Published: July 28, 2023

REMARKS: _____

Second Reading: August 2, 2023
 To Mayor: August 8, 2023
 Returned: August 16, 2023
 Effective: August 31, 2023
 Published: September 1, 2023

REMARKS: _____

| ROLL CALL VOTE | | | | |
|-----------------------|------|------|-----|----|
| | AYES | NOES | ABS | EX |
| Evans | | | X | |
| Galimba | X | | | |
| Inaba | X | | | |
| Kagiwada | | | X | |
| Kāneali'i-Kleinfelder | X | | | |
| Kierkiewicz | X | | | |
| Kimball | X | | | |
| Lee Loy | X | | | |
| Villegas | X | | | |
| | 7 | 0 | 2 | 0 |

| ROLL CALL VOTE | | | | |
|-----------------------|------|------|-----|----|
| | AYES | NOES | ABS | EX |
| Evans | X | | | |
| Galimba | X | | | |
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| Kagiwada | X | | | |
| Kāneali'i-Kleinfelder | X | | | |
| Kierkiewicz | X | | | |
| Kimball | X | | | |
| Lee Loy | X | | | |
| Villegas | X | | | |
| | 8 | 0 | 1 | 0 |

I DO HEREBY CERTIFY that the foregoing BILL was adopted by the County Council published as indicated above.

Disapproved this 16th day
 of August, 2023.

[Signature]
 MAYOR, COUNTY OF HAWAII

[Signature]
 COUNCIL CHAIRPERSON

[Signature]
 COUNTY CLERK

Bill No.: 58
 Reference: C-370/Waived FC
 Ord No.: 23 60