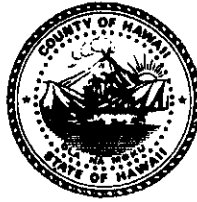


COUNTY OF HAWAI'I



STATE OF HAWAI'I

BILL NO. 75

ORDINANCE NO. 07 70

**AN ORDINANCE AMENDING THE HAWAII COUNTY GENERAL PLAN, AS
ADOPTED BY ORDINANCE NO. 05 25, RELATING TO GENERAL PLAN
AMENDMENT PROCEDURES**

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

SECTION 1. Purpose. The purpose of this ordinance is in accordance with Section 3-15, Hawai'i County Charter, and Section 16.2 Interim Amendments, County of Hawai'i General Plan adopted by Ordinance No. 05 25. Specifically, the amendment is to streamline the current amendment procedures to the General Plan initiated by the County Council and the Planning Director, while still allowing adequate time for the Planning Director and Planning Commission to provide their recommendations as required by the Hawai'i County Charter and the Hawai'i County Code.

SECTION 2. Ordinance No. 05-25, is amended by amending section 16.1, relating to Comprehensive Review of the County of Hawai'i General Plan, to read as follows:

"16.1 COMPREHENSIVE REVIEW

- (1) The Planning Director shall initiate a comprehensive review of the General Plan ~~[every ten years after the initial date of adoption of the General Plan and the date of adoption of subsequent]~~ **and prepare a set of recommended amendments for review by the Planning Commission and adoption by the County Council. The recommended amendments shall be submitted to the County Council not more than ten years after the date of adoption of the previous** amendments resulting from a comprehensive review.
- (2) The Planning Director shall give notice of the comprehensive review to the County Council, Planning Commission, and the general public. The notice shall state:
 - (a) The general scope of review;
 - (b) The ~~[ability]~~ **opportunity** for the County Council, Planning Commission, and the general public to provide their comments and suggestions to the Planning Director; and

- (c) The initiation date, ~~[schedule]~~ **general sequence** of events, and time for completion of the review period.
- (3) **The Planning Director shall establish a deadline for Council-initiated amendments during the comprehensive review which shall be not less than 120 days after the initial notice under section 16.1(2). The County Council may initiate such amendments by resolution.**
- ~~[(3)]~~ (4) ~~[Upon completion of the review period, the]~~ **The** Planning Director shall conduct public workshops on ~~[the proposed]~~ amendments **proposed by the Planning Director and by the County Council.**
- ~~[(4)]~~ (5) The public shall be afforded ~~[60]~~ **21** days from the date of the last public workshop to provide comments to the Planning Director.
- ~~[(5)]~~ (6) The Planning Director ~~[may]~~ **shall** then ~~[initiate proposed amendments to the General Plan and shall]~~ submit the amendments **proposed by the Planning Director and by the County Council** to the Planning Commission for its review and recommendation within ~~[60]~~ **30** days after the public deadline to submit comments to the Planning Director. **The Planning Director shall make a recommendation on any Council-initiated amendments.**
- ~~[(6)]~~ (7) The Planning Director shall notify a property owner of a proposed amendment that would redesignate its property to Open or Conservation, unless the property is already designated Conservation by the State ~~[and]~~ Land Use Commission. ~~[If the Planning Director originally initiates the redesignation, then a notice]~~ **Notice** shall be ~~[sent]~~ **given** not less than 21 days before the first Planning Commission hearing on the proposed amendment. ~~[If the Planning Commission suggests the proposal, the property owner shall be notified of the Planning Director's decision to initiate it not less than 21 days before the County Council's first reading. If initiated by the County Council, the property owner shall be notified not less than 21 days before the County Council's first reading.]~~
- ~~[(7)]~~ (8) The Planning Commission shall conduct and complete its ~~[public hearings]~~ **review** on the proposed amendments to the General Plan, **and shall submit its recommendations,** within ~~[90]~~ **150** days from the date of receipt of the proposed amendments **from the Planning Director.**
- ~~[(8)]~~ (9) ~~[The Planning Commission shall submit its recommendation to the County Council together with the Planning Director's proposal within 60 days from the close of the public hearing.]~~ The Planning Commission shall recommend approval of the ~~[Planning Director's proposal]~~ **proposed amendments,** in whole or in part, recommend changes, or recommend the rejection of the proposal for changes to the General Plan. **If the Planning Commission fails to act on a proposed amendment within the required period, it shall be deemed a negative recommendation.**
- ~~[(9)]~~ (10) The County Council shall review the amendments submitted ~~[by the Planning Director]~~ and the recommendation of the Planning Commission **and adopt an amended General Plan.** ~~[The County Council may adopt the changes proposed by the Planning Director and Planning Commission, including any modifications, deletions, or additions deemed necessary by the County Council. The County Council shall render a decision within 120 days of receipt of the~~

~~proposed amendments.]~~ The County Council may make modifications, deletions, or additions to the proposed amendments as it may deem necessary, within the general intent and subject matter of the proposed amendments, in accordance with its rules of procedure. However, any County Council change to a proposed amendment which substantially changes the general intent or subject matter of the proposed amendment, such as newly adding or deleting a goal, policy, or course of action, or standard, or a map amendment which changes a land use designation of a parcel, shall be considered an entirely new proposed amendment. Such a new amendment proposed at this stage shall not be processed as part of the ongoing comprehensive review, but shall be processed as a new interim amendment pursuant to Section 16.2."

SECTION 3. Ordinance No. 05-25, is amended by amending section 16.2, relating to Interim Amendments of the County of Hawai'i General Plan, to read as follows:

"16.2 INTERIM AMENDMENTS

- (1) The County Council may initiate interim amendments to the General Plan at any time ~~[other than]~~, except during the comprehensive review pursuant to the following procedures:
 - (a) The County Council may, by resolution, ~~[direct the Planning Director to conduct a study to determine the feasibility of]~~ request the Planning Director and Planning Commission to review and make a recommendation on a proposed amendment.
 - (b) The Planning Director shall have ~~[420]~~ 60 days or a longer period, as may be agreed to by the County Council, to submit a ~~[completed feasibility study and]~~ recommendation on the ~~[County Council's]~~ proposal to the Planning Commission for its review and recommendation. ~~[If the Planning Director recommends an approval, the Planning Director shall also submit a draft ordinance for consideration and action by the County Council.]~~ The Planning Director's recommendation may include suggested changes consistent with the general intent of the proposed amendment, and the Planning Director shall, if requested by County Council, prepare a draft ordinance to implement the proposed amendment.
 - (c) The Planning Director shall notify a property owner of a proposed amendment that would redesignate its property to Open or Conservation, unless the property is already designated Conservation by the State Land Use Commission. Notice shall be given not less than 21 days before the first Planning Commission hearing on the proposed amendment.
 - ~~[(c)]~~ (d) The Planning Commission shall [conduct and complete its public hearings on] consider the proposed amendment [within 60 days of receipt of the feasibility study and recommendation from the Planning Director] at no less than two meetings, and shall make its recommendation on the

proposed amendment to the County Council within 60 days from its receipt of the Planning Director's recommendation.

- ~~[(d) The Planning Commission shall submit its recommendation on the proposed amendment together with the Planning Director's feasibility study and recommendation to the County Council within 30 days from the close of the hearing.]~~
- (e) ~~[The County Council shall review the proposed amendment in accordance with its rules of practice and procedure.]~~ **If the Planning Commission fails to act within the required period, it shall be deemed a negative recommendation.**
- (f) The County Council may make modifications, deletions, or additions to the proposed amendments as it may deem necessary, within the general intent and subject matter of the proposed amendments, in accordance with its rules of procedure. However, any County Council change to a proposed amendment which substantially changes the general intent or subject matter of the proposed amendment, such as newly adding or deleting a goal, policy, or course of action, or standard, or a map amendment which changes a land use designation of a parcel, shall be considered an entirely new proposed amendment and submitted to the Planning Director and Planning Commission for their review and recommendation.**

(2) Planning Director

- (a) The Planning Director may initiate an **interim** amendment to the General Plan at any time other than during the comprehensive review.
- (b) The Planning Director shall conduct a workshop on the proposed amendment prior to submitting it to the Planning Commission.
- (c) The Planning Director shall submit the proposed amendment to the Planning Commission for its review and recommendation.
- ~~(d) [The Planning Commission shall conduct and complete its public hearing within 60 days from the date of receipt of the proposed amendment.]~~ **The Planning Director shall notify a property owner of a proposed amendment that would redesignate its property to Open or Conservation, unless the property is already designated Conservation by the State Land Use Commission. Notice shall be given not less than 21 days before the first Planning Commission hearing on the proposed amendment.**
- (e) ~~[The Planning Commission shall submit its recommendation together with the Planning Director's proposal to the County Council within 30 days from the close of the hearing.]~~ **The Planning Commission shall conduct and complete its review on the proposed amendments to the General Plan, and shall submit its recommendations, within 120 days from the date of receipt of the proposed amendments. If the Planning Commission fails to act within the required period, it shall be deemed a negative recommendation.**

(f) ~~[The County Council shall review the proposed amendment in accordance with its rules of practice and procedure.]~~ **The County Council may make modifications, deletions, or additions to the proposed amendments as it may deem necessary, within the general intent and subject matter of the proposed amendments, in accordance with its rules of procedure. However, any County Council change to a proposed amendment which substantially changes the general intent or subject matter of the proposed amendment, such as newly adding or deleting a goal, policy, or course of action, or standard, or a map amendment which changes a land use designation of a parcel, shall be considered an entirely new proposed amendment and processed as a new interim amendment pursuant to section 16.2(1).**

(3) General Public

- (a) Consistent with the County Charter, a member of the public may submit an application requesting the Planning Director to initiate an amendment to the General Plan at any time ~~[other than]~~ **except** during the comprehensive review.
- (b) The application shall include:
 - (i) A filing fee of \$500.00 to cover the administrative cost of processing the application;
 - (ii) A statement of the nature of the proposed amendment;
 - (iii) A draft of the language of the proposed amendment;
 - (iv) A statement of the reasons for granting the proposed change, supported by a written, documented assessment of the relationships of the proposed change with pertinent elements of the General Plan; and
 - (v) Maps, graphs, plot plan, and other supportive information.
- (c) Upon receipt of a properly filed and completed application, the Planning Director shall have 120 days to take one of the following actions:
 - (i) Reject the application for an amendment; or
 - (ii) Initiate an amendment to the General Plan.
- (d) Should the Planning Director initiate an amendment, the ~~[Planning Director shall then transmit the proposed amendment to the Planning Commission for its review and recommendation]~~ **amendment shall be processed according to section 16.2(2).**
- ~~[(e) The Planning Commission shall conduct and complete its public hearings on the proposed amendment within 60 days of receipt of the proposal from the Planning Director.~~
- ~~[(f) The Planning Commission shall submit its recommendation on the proposed amendment to the County Council within 30 days from the close of the hearing.~~
- ~~[(g) The County Council shall review the proposed amendment in accordance with its rules of practice and procedure.]~~
- ~~[(h)]~~**(e)** In the event that the Planning Director rejects an application for an amendment, the applicant may request the County Council to initiate an amendment on its behalf **at any time, except during the comprehensive**

review. If the County Council decides to initiate the proposed amendment by resolution, the amendment procedure shall follow section 16.2(1).

[(+)](f) In the event that an application is denied by the County Council, the same or a substantially similar application may not be submitted for consideration within one year following such denial, unless the applicant submits significant new data or additional reasons that the Planning Director may find to be a sufficient basis for the application to be considered.”

SECTION 4. Ordinance No. 05-25, is amended by amending section 16.3, relating to Rules and Regulations of the County of Hawai‘i General Plan, to read as follows:

“16.3 RULES AND REGULATIONS. The Planning Director and the Planning Commission ~~[shall]~~ **are authorized to** promulgate rules and regulations to implement the amendment procedures.”

SECTION 5. Applicability. The amendatory provisions of this ordinance shall govern the procedure for amendment of the general plan notwithstanding any contrary or inconsistent provision within or without the general plan, and any such existing contrary or inconsistent provision is hereby suspended by the provisions of this ordinance.

SECTION 6. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given without the invalid provision or application, and to this end, the provisions of this ordinance are declared to be severable.

SECTION 7. Material to be repealed is bracketed. New material is underscored. In re-printing this ordinance or the General Plan, the brackets, bracketed material and underscoring need not be included.

SECTION 8. This ordinance shall take effect upon its approval.

INTRODUCED BY:


COUNCIL MEMBER, COUNTY OF HAWAII

Kona, Hawaii

Date of Introduction: April 18, 2007

Date of 1st Reading: April 18, 2007

Date of 2nd Reading: May 2, 2007

Effective Date: May 17, 2007

REFERENCE: Comm. 181.1

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

Introduced By: K. Angel Pilago
Date Introduced: April 18, 2007
First Reading: April 18, 2007
Published: N/A

REMARKS: _____

Second Reading: May 2, 2007
To Mayor: May 11, 2007
Returned: May 22, 2007
Effective: May 17, 2007
Published: May 31, 2007

REMARKS: _____

ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Ford	X			
Higa	X			
Hoffmann	X			
Ikeda	X			
Jacobson	X			
Naeole	X			
Pilago	X			
Yagong	X			
Yoshimoto	X			
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ROLL CALL VOTE				
	AYES	NOES	ABS	EX
Ford	X			
Higa	X			
Hoffmann	X			
Ikeda			X	
Jacobson	X			
Naeole	X			
Pilago	X			
Yagong	X			
Yoshimoto	X			
	8	0	1	0

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

APPROVED AS TO
FORM AND LEGALITY:

Ag. S. Selig
DEPUTY CORPORATION COUNSEL
COUNTY OF HAWAII

Date MAY 16 2007

Approved/Disapproved this 17th day

of May, 20 07

Dr. Aelby

ACTING MAYOR, COUNTY OF HAWAII

[Signature]
COUNCIL CHAIRMAN
[Signature]
COUNTY CLERK

Bill No.: 75
Reference: C-181.1/PC-25
Ord No.: 07 70