**AN ORDINANCE AMENDING CHAPTER 16, ARTICLE 1 OF THE HAWAI‘I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), RELATING TO THE GENERAL PLAN.**

**BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI‘I:**

**SECTION 1.** Chapter 16, article 1, section 16-1, of the Hawai‘i County Code 1983 (2016 Edition, as amended) is amended to read as follows:

“**Section 16-1. The County of Hawai‘i general plan.**

(a)That certain planning code known and designated as “County of Hawai‘i general plan,” as adopted on December 5, 1971, by the council of the County of Hawai‘i, is hereby adopted by reference, subject to later amendments by ordinance, and may be cited as the “general plan.”

(b) A copy of the general plan and amendments shall be available for public inspection at the planning department.

(c) Comprehensive review and update.

(1) The planning director shall initiate a comprehensive review of the general plan and prepare an updated general plan for independent review by the windward and leeward planning commissions and then adoption by the County council. The comprehensive review shall be initiated not more than ten years after the date of adoption of the previous general plan and submitted to the County council not more than thirteen years after the date of adoption of the previous general plan. If the updated general plan is not adopted within thirteen years, the planning director shall provide quarterly reports to the County council on the status of the comprehensive review process. If the updated general plan is not adopted within fifteen years, the planning director shall reinitiate the comprehensive review process.

(2) The planning director shall give notice of the comprehensive review and general plan update to the County council, windward and leeward planning commissions, and the general public. The notice shall state:

(A) The general scope of review;

(B) The opportunity for the County council, windward and leeward planning commissions, and the general public to provide their comments and suggestions to the planning director; and

(C) The initiation date, general sequence of events, and time for completion of the review and general plan update period.

(3) The County council shall have one hundred and twenty days after the initial notice under paragraph (2) of this subsection to propose updates based on the previous general plan by resolution.

(4) The planning director shall conduct public workshops on updates to the general plan proposed by the planning director and by the County council.

(5) The public shall be afforded twenty-one days from the date of the last public workshop to provide comments to the planning director.

(6) The planning director shall then submit a draft general plan proposed by the planning director, a summary of the changes between the current general plan and the draft general plan, and a report on any County council and public recommendations to the windward and leeward planning commissions for their independent review and separate recommendations within sixty days after the public deadline to submit comments to the planning director.

(7) The planning director shall notify a property owner of proposed changes in the updated general plan 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 twenty-one days before the first windward or leeward planning commission hearing on the proposed amendment.

(8) The windward and leeward planning commissions shall conduct and complete their independent review of the draft general plan, and shall both submit their separate recommendations, within one hundred and fifty days from the date of receipt of the draft general plan from the planning director.

(9) The windward and leeward planning commissions shall each recommend approval of the draft general plan, in whole or in part, and recommend amendments to the draft, or recommend the rejection of the draft general plan. If either fails to act on the draft general plan within the required period, it shall be deemed a negative recommendation from that planning commission only.

(10) Substantive amendments to the draft general plan proposed by either planning commission shall be reviewed by the planning director. The planning director’s recommendations on the planning commission’s substantive amendments shall be provided to the County council along with the recommendations on the draft general plan as a whole. An amendment shall be considered substantive if:

(A) It alters any of the main provisions of the general plan by adding, removing, or modifying key sections or clauses;

(B) It changes the scope of the general plan by expanding or narrowing the applicability of the general plan as law;

(C) It changes implementation mechanisms by modifying how the general plan will be implemented or enforced; or

(D) It impacts financial aspects of the general plan by changing funding, costs, or budgetary implications.

(11) The County council shall review the draft general plan, the separate recommendations of the windward and leeward planning commissions, and any substantive amendments from the windward and leeward planning commissions. The County council may adopt the amendments to the draft general plan proposed by the windward and leeward planning commissionsand any non-substantive modifications, deletions, or additions.

(12) The County council shall have sixty days from receipt of the draft general plan and recommendations from both planning commissions to propose substantive amendments to the general plan.

(A) The County council shall propose any substantive amendments by resolution.

(B) The planning director shall have sixty days to review and submit a recommendation on the proposed amendments to the windward and leeward planning commissions for their independent review and separate recommendations.

(C) Each planning commission shall consider the proposed amendments and shall make their separate recommendations on the proposed amendment to the County council within sixty days from their receipt of the planning director’s recommendation.

(D) If either planning commission fails to act within the required period on any amendment, it shall be deemed a negative recommendation from that planning commission only.

(E) The County council may adopt any amendments to the draft general plan that have been reviewed by the planning director and windward and leeward planning commissions, including any non-substantive modifications, deletions, or additions deemed necessary by the County council.

(d) Interim amendments.

(1) The County council may initiate interim amendments to the general plan at any time, except during the comprehensive review pursuant to the following procedures:

(A) The County council may, by resolution, request the planning director and windward and leeward planning commissions to independently review and make separate recommendations on a proposed amendment.

(B) The planning director shall have sixty days or a longer period, as may be agreed to by the County council, to submit a recommendation on the proposal to the windward and leeward planning commissions for their independent review and separate recommendations. 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 twenty-one days before the first windward or leeward planning commission hearing on the proposed amendment.

(D) Each planning commission shall consider the proposed amendment at no less than two meetings, and shall make their separate recommendations on the proposed amendment to the County council within sixty days from their receipt of the planning director’s recommendation.

(E) If either planning commission fails to act within the required period, it shall be deemed a negative recommendation from that planning commission only. If both planning commissions fail to act on a proposed amendment within the required period, such failure to act shall be deemed a negative recommendation from both planning commissions.

(F) The County council may adopt the changes proposed by the planning director and windward and leeward planning commissions, including any modifications, deletions, or additions deemed necessary by the County council.

(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 windward and leeward planning commissions.

(C) The planning director shall submit the proposed amendment to the windward and leeward planning commissions for their independent review and separate recommendations.

(D) 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 twenty-one days before the first windward or leeward planning commission hearing on the proposed amendment.

(E) Each planning commission shall conduct and complete its independent review on the proposed amendments to the general plan, and shall submit its separate recommendations, within one hundred and twenty days from the date of receipt of the proposed amendments. If either planning commission fails to act within the required period, it shall be deemed a negative recommendation from that planning commission only. If both planning commissions fail to act on a proposed amendment within the required period, such failure to act shall be deemed a negative recommendation from both planning commissions.

(F) The County council may adopt the changes proposed by the planning director and windward and leeward planning commissions, including any modifications, deletions, or additions deemed necessary by the County council.

(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 except during the comprehensive review.

(B) The application shall include:

(i) A filing fee of $500 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 one hundred and twenty 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 amendment shall be processed according to paragraph (2) of this subsection.

(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 paragraph (1) of this subsection.

(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.

(e) Rules and regulations.

The planning director and the windward and leeward planning commissions are authorized to promulgate rules and regulations to implement the amendment procedures. Any such rule or regulation shall be established by the windward and leeward planning commissions acting jointly.”

**SECTION 2.** New material is underscored. In printing this ordinance, the underscoring need not be included.

**SECTION 3.** Severability. 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 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 4.** This ordinance shall take effect upon its approval.

INTRODUCED BY:

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COUNCIL MEMBER, COUNTY OF HAWAI‘I

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Hawai‘i

Date of Introduction:

Date of 1st Reading:

Date of 2nd Reading:

Effective Date: