

ORDINANCE NO. 3166

BILL NO. 84 (2002), Draft 2

A BILL FOR AN ORDINANCE AMENDING
CHAPTER 2.80A, MAUI COUNTY CODE, PERTAINING TO
THE GENERAL PLAN AND THE COMMUNITY PLANS

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Chapter 2.80A, Maui County Code, is repealed.

SECTION 2. Title 2, Maui County Code, is amended by adding a new chapter to be appropriately designated and to read as follows:

"Chapter 2.80B

GENERAL PLAN AND COMMUNITY PLANS

Sections:

- 2.80B.010 Purpose and intent.
- 2.80B.020 Definitions.
- 2.80B.030 General plan.
- 2.80B.040 General plan advisory committees.
- 2.80B.050 Decennial revisions to the general plan.
- 2.80B.060 Non-decennial amendments to the general plan.
- 2.80B.070 Community plans.
- 2.80B.080 Community plan advisory committees.
- 2.80B.090 Decennial revisions to the community plans.
- 2.80B.100 Non-decennial amendments to community plans proposed by the director of planning or the council.
- 2.80B.110 Non-decennial amendments to community plans proposed by a person.

2.80B.010 Purpose and intent. The purpose and intent of this chapter is to establish an improved process to update the general plan and community plans. This chapter is designed to provide plans that clearly identify provisions that are meant to be policy guidelines and provisions that are intended to have the force and effect of law; to implement and enforce plans through prioritization and accountability; to empower advisory committees; to place more emphasis on island-wide and inter-regional issues; to encourage more frequent updates of plans and to establish deadlines for

completion; and to increase public and community participation in the planning process.

2.80B.020 Definitions. Unless the context clearly indicates a different meaning, for the purposes of this chapter the following words and terms shall be defined as follows:

"Community plan advisory committee" means the same as "citizen advisory committee" in section 8-8.5(4) of the charter.

"Person" means individual natural persons; firms, partnerships, joint ventures, societies, associations, clubs, trusts, corporations, government agencies, and any other entities; and any officers, agents, successors, assigns, employees, factors, and any kind of personal representatives of any such entities, but not including the director of planning or the council.

2.80B.030 General plan. A. Exhibit A of this chapter, entitled "The General Plan of the County of Maui 1990 Update," with an effective date of September 27, 1991, as may be amended, which is on file with the office of the county clerk, is adopted as the general plan of the County and by reference made a part of this chapter.

B. All agencies shall comply with the general plan. Notwithstanding any other provision, all community plans, zoning ordinances, subdivision ordinances, and administrative actions by agencies shall conform to the general plan. Preparation of County budgets and capital improvement programs shall implement the general plan to the extent practicable. The community plans authorized in this chapter are and shall be part of the general plan of the County, as provided by section 8-8.5 of the charter.

C. The general plan and the community plans shall be internally consistent, with compatible vision, principles, goals, policies, implementing actions, and land use maps. The planning period of the general plan shall be twenty years.

D. The general plan shall be developed with public notification and participation, facilitated by the use of tools such as public opinion surveys, community design charettes, public hearings and informational meetings, radio, newspaper, television, and other types of communication and direct consultation with different age, economic, and other groups.

E. The general plan shall be developed after input from state and County agencies and the general public, and shall be based on sound policy and information. The general plan shall: indicate desired population and physical development patterns for each island and region

within the County; address the unique problems and needs of each island and region; explain the opportunities and the social, economic, and environmental consequences related to potential developments; and set forth the desired sequence, patterns, and characteristics of future developments.

The general plan shall identify objectives to be achieved, and priorities, policies, and implementing actions to be pursued with respect to population density, land use maps, land use regulations, transportation systems, public and community facility locations, water and sewage systems, visitor destinations, urban design, and other matters related to development. The general plan shall also identify the vision, principles, goals, and policies for the County and for each island.

In addition, the general plan shall include the following elements: island-wide land use strategies for Lana`i, Maui, and Moloka`i; implementation program; milestones; and technical plans and studies.

1. Island-wide land use strategies for Lana`i, Maui, and Moloka`i.

a. Vision statement. The vision statement for each island shall reference the island's economy, land use patterns, environmental and cultural resources, and social environment.

b. Managed and directed growth plan. The managed and directed growth plan for each island shall describe existing and future land use patterns and planned growth for the twenty-year planning period and include a discussion on how these patterns are consistent with and support the vision, principles, goals, and policies of the County and the island. For the island of Maui, the managed and directed growth plan shall include a map that delineates urban and rural growth areas, consistent with, and illustrative of, the general plan's vision, principles, goals, and policies.

c. Action plan. The action plan for each island shall identify specific programs, projects, and regulations that will need to be developed over the twenty-year planning period to implement the island's vision, principles, goals, and policies. This element shall include a general schedule and identify implementing agencies and persons.

2. Implementation program. The implementation program shall include a capital

improvement element, a financial element, and an implementation schedule.

a. Capital improvement element. The capital improvement element shall describe regional infrastructure systems and regional public facilities and services that will be needed over the twenty-year planning period.

b. Financial element. The financial element shall describe a fiscally sound financial program for identified actions and capital improvements. This element shall be broken into a twenty-year financial plan, a ten-year financial plan, and a five-year financial plan. Preparation of the County's annual operating budget and capital program, respectively developed pursuant to sections 3.04.030 and 3.04.040 of this code, shall implement the general plan to the extent practicable.

c. Implementation schedule. The implementation schedule shall identify and numerically prioritize specific actions, the implementation actions' commencement and completion dates, the lead implementation agency or person, the estimated implementation cost, and the anticipated funding source or sources.

3. Milestones. The general plan shall contain specific milestones designed to measure progress in the implementation of the general plan's vision, principles, goals, and policies. In assessing each milestone, due consideration shall be given to federal, state, and County economic, demographic, and other significant quality-of-life indicators.

4. Technical plans and studies. The technical plans and studies shall include a socio-economic forecast, an infrastructure study, and an additional resource study.

a. Socio-economic forecast. The socio-economic forecast shall include twenty-year forecasts of resident and de facto population; age distribution; job growth by industry; migration; income; housing demand, labor demand, and unemployment; and average visitor census, visitor arrivals, visitor expenditures, and other relevant data about visitors. The data shall be analyzed assuming at least two different rates of population and economic growth. The data shall be provided for the County as a whole, by island, and by

community plan area. At least every two years, the director of planning shall propose a new socio-economic forecast, which shall be processed as a non-decennial amendment to the general plan pursuant to this chapter, unless the forecast is included as part of the director of planning's proposed decennial revisions to the general plan.

b. Infrastructure study. The infrastructure study shall assess the adequacy, limitations, and opportunities relating to physical infrastructure, including public facilities, water systems, health care systems, and telecommunications systems. In particular, for each assessed component of physical infrastructure, the study shall assess future system requirements and costs based on the following: population projections over the twenty-year planning period; national or local planning standards; a baseline inventory of current capacity; and existing capacity deficits or excesses relating to national or other appropriate standards.

c. Additional resource study. The additional resource study shall assess additional resources, including environmental, historic, cultural, educational, scenic, and significant view plane resources.

F. Status reports. Each agency shall prepare a status report on its implementation and enforcement of the general plan, which shall be transmitted to the director of planning at the same time the agency submits the third-quarter budget implementation report pursuant to section 3.04.050 of this code. The director of planning shall also contact persons outside County government for status reports on appropriately assigned implementation actions. The director of planning shall issue a report annually providing a detailed explanation of the implementation and enforcement of the general plan and the community plans to the mayor and the council.

2.80B.040 General plan advisory committees. A. At least every ten years (decennial), the director of planning shall prepare and recommend proposed revisions to the general plan.

B. There shall be separate general plan advisory committees for the islands of Lana'i, Maui, and Moloka'i to comment, advise, and provide recommendations to the director of planning regarding the proposed revisions

prepared and recommended by the director of planning, as follows:

1. The Lana`i general plan advisory committee shall be composed of thirteen members, nine appointed by the council and four appointed by the mayor.

2. The Maui general plan advisory committee shall be composed of twenty-five members, one appointed by the mayor from each Maui community plan area, four appointed by the council from the Wailuku-Kahului community plan area, and three appointed by the council from each of the other Maui community plan areas.

3. The Moloka`i general plan advisory committee shall be composed of thirteen members, nine appointed by the council and four appointed by the mayor.

C. The director of planning shall be responsible for providing staff to support the work of the general plan advisory committees, which shall include department staff and, at the discretion of the director of planning, outside consultant services.

D. Within one hundred eighty days after its first meeting, a general plan advisory committee shall forward its recommendations and proposed revisions to the director of planning unless the council, by resolution, extends the time within which to forward the recommendations.

2.80B.050 Decennial revisions to the general plan.

A. In processing proposed decennial revisions to the general plan, the director of planning shall:

1. Simultaneously transmit the proposed revisions prepared and recommended by the director of planning to the three general plan advisory committees;

2. Make the revisions prepared and recommended by the director of planning available for public inspection and copying pursuant to the Uniform Information Practices Act; and

3. Assist the general plan advisory committees to conduct public meetings, public workshops, and public hearings.

B. Within thirty days after a general plan advisory committee has forwarded its recommendations and proposed revisions to the director of planning, the director of planning shall simultaneously place the following on a meeting agenda for the planning commission of the same island as the general plan advisory committee: the proposed revisions prepared and recommended by the director of planning; and the general

plan advisory committee's recommendations and proposed revisions.

C. No later than one hundred eighty days after a planning commission holds its first public hearing, the planning commission shall transmit the following to the council: the proposed revisions prepared and recommended by the director of planning; the general plan advisory committee's recommendations and proposed revisions; and the planning commission's recommendations, findings, and proposed revisions. The council may, by resolution, extend the time within which the transmittal may be made. The transmittals made pursuant to this subsection shall collectively be considered "revisions to the general plan proposed by the director of planning" as that term is used in section 8-8.6(3) of the charter.

D. No later than one year after receipt of the final transmittal pursuant to subsection C, the council shall adopt the general plan by ordinance following a public hearing. Upon the adoption of the general plan, the general plan advisory committees shall be disbanded.

E. The general plan and any revisions thereto shall be in printed form and shall be attached to and be incorporated by reference into the ordinances adopting the general plan.

2.80B.060 Non-decennial amendments to the general plan. A. Non-decennial amendments to the general plan may be proposed by the director of planning or by the council by resolution. All proposed amendments shall be referred to the appropriate planning commission for findings and recommendations. Proposals for non-decennial amendments to the general plan made pursuant to this subsection shall be processed in accordance with sections 8-8.4 and 8-8.6 of the charter.

B. Non-decennial amendments to the general plan enacted pursuant to section 2.80B.050 may be proposed by a person during July of each year, provided that such amendments shall not be accepted within [three years] one year after the enactment of a decennial revision to the general plan pursuant to section 2.80B.050. Applications shall follow the procedures set out in sections 19.510.010 and 19.510.020 of this code, shall include the application fee as set forth in the County budget, and shall be processed as if prepared by the director of planning pursuant to section 8-8.4 of the charter. An environmental assessment or environmental impact statement prepared in accordance with chapter 343, Hawai'i Revised Statutes, shall be submitted along with the application.

C. Prior to approving any amendment to the general plan pursuant to this section, the council shall hold

public hearings on Lanai, Maui, and Molokai on the bill incorporating the amendment.

D. Nothing in this section shall prevent concurrent processing of other actions related to a proposed amendment. Where an amendment to the general plan directly triggers an amendment to a community plan, such matters shall be processed concurrently, subject to Maui County Code subsection 2.80B.110A.

2.80B.070 Community plans. A. Community plans shall be developed after input from state and County agencies and the general public, and shall be based on sound policy and information. Each community plan shall include implementing actions that clearly identify priorities, timelines, estimated costs, and the County department accountable for the completion of the implementing actions. Community plans shall implement the general plan's vision, principles, goals, and policies. Each community plan shall contain the requirements set forth in subsection E. Each community plan shall include a land use map showing the community plan area to which it is applicable. The planning period of each community plan shall be twenty years.

B. Each community plan shall be developed with public notification and participation, facilitated by the use of tools such as public opinion surveys, community design charettes, public hearings and informational meetings, radio, newspaper, television, and other types of communication and direct consultation with different age, economic, and other groups.

C. The following community plans are incorporated by reference and adopted pursuant to this chapter:

1. Hana Community Plan - Ordinance No. 2347 (1994), as amended;
2. Pa`ia-Ha`iku Community Plan - Ordinance No. 2415 (1995), as amended;
3. Kaho`olawe Community Plan - Ordinance No. 2413 (1995), as amended;
4. West Maui Community Plan - Ordinance No. 2476 (1996), as amended;
5. Makawao-Pukalani-Kula Community Plan - Ordinance No. 2510 (1996), as amended;
6. Kihei-Makena Community Plan - Ordinance No. 2641 (1998), as amended;
7. Lana`i Community Plan - Ordinance No. 2738 (1998), as amended;
8. Moloka`i Community Plan - Ordinance No. 3022 (2001), as amended; and
9. Wailuku-Kahului Community Plan - Ordinance No. 3061 (2002), as amended.

D. Exhibit B of this chapter is a map showing, in general, the community plan areas referred to in subsection B and an indication of the boundaries of the community plan areas.

E. Each community plan shall contain:

1. A statement of the major problems and opportunities concerning the needs and development of the community plan area;

2. A statement of the social, economic, and environmental effects of such development;

3. The desired sequence, patterns, and characteristics of future development;

4. A description of the community plan area;

5. A statement of planning standards and principles relating to land uses within the community plan area;

6. A statement of urban and/or rural design principles and objectives for the community plan area;

7. For community plan areas on the island of Maui, urban and rural growth boundaries and a map delineating urban and rural growth areas, consistent with the general plan;

8. For community plan areas on the island of Maui, a designation of specific land uses within the urban and rural growth areas;

9. A list of areas, sites, and structures recognized as having historical or archaeological significance, and a list of scenic sites and resources;

10. A description of a projected multi-modal transportation system showing existing and proposed roadways, transit corridors, bikeways, and major thoroughfares;

11. Statements of intention relating to the location or improvement of all public service and transportation facilities;

12. Statements setting forth:

a. Problems relating to land uses; and

b. Projections relating to social, economic, and environmental effects of proposed development;

13. A statement of desired population density including visitors and residents;

14. Specific land use designations based on property lines, to the extent practicable. Notwithstanding the foregoing, a community plan may contain one or more project districts wherein permitted land uses are identified by percentage of total acreage and density in conformance with the general plan and community plan; provided, however,

that the council shall subsequently zone each project district consistent with the identified land uses after holding a public hearing in the applicable community plan area;

15. A list of streetscape and landscaping principles and desired streetscape and landscaping improvements; and

16. An action element. The action element shall identify specific programs, projects, and regulations that need to be developed over the twenty-year planning period to implement the community plan. Further, identification of specific programs, projects, and regulations that need to be accomplished during the first ten years of that planning period shall be separately identified. This element shall include a prioritized general schedule and identify each implementing agency or person.

F. Implementation program. The implementation program shall include a capital improvement element, a financial element, and an implementation schedule.

1. Capital improvement element. The capital improvement element shall describe infrastructure systems and public facilities and services that will be needed over the twenty-year planning period, in two-year increments, to implement the community plan's vision, principles, goals, and policies. Consideration shall be given to roads, sidewalks, bikepaths, and pedestrian ways; local water and utility systems; local drainage improvements; community and neighborhood parks; and local public facilities.

2. Financial element. The financial element shall describe a fiscally sound financial program for identified actions and capital improvements. This element shall be broken into a twenty-year financial plan, a ten-year financial plan, and a five-year financial plan. Preparation of the County's annual operating budget and capital improvement program, respectively developed pursuant to sections 3.04.030 and 3.04.040 of this code, shall implement the community plans to the extent practicable.

3. Implementation schedule. The implementation schedule shall identify and numerically prioritize specific actions, the implementation actions' commencement and completion dates, the lead implementation agency, the estimated implementation cost, and the anticipated funding source or sources.

G. Milestones. Each community plan shall contain specific milestones designed to measure progress in the implementation of the community plan's vision, principles, goals, and policies. In assessing each milestone, due consideration shall be given to federal, state, and County economic, demographic, and other significant quality-of-life indicators.

H. Status reports. Each agency shall prepare a status report on its implementation and enforcement of the community plans, which shall be transmitted to the director of planning at the same time the agency submits the third-quarter budget implementation report pursuant to section 3.04.050 of this code. The director of planning shall issue annually a report providing a detailed explanation of the implementation and enforcement of the general plan and the community plans to the mayor and the council.

2.80B.080 Community plan advisory committees. A. At least every ten years (decennial), the director of planning shall prepare and recommend proposed revisions to the community plans, beginning with the community plan first adopted in the previous decennial revision process and continuing with the revisions to the community plan next adopted in the previous decennial revision process and so on until all nine community plans have been revised.

B. There shall be a community plan advisory committee for each community plan area set forth in section 2.80B.070(B). Except for the community plan advisory committee for the Kaho'olawe community plan, each community plan advisory committee shall consist of residents of the corresponding community plan area and shall hold all meetings in the corresponding community plan area.

C. Each community plan advisory committee shall be composed of thirteen members, nine appointed by the council and four by the mayor. Prior or current service as a member of a general plan advisory committee shall not disqualify an individual from serving on a community plan advisory committee. Each community plan advisory committee is charged with reviewing and recommending revisions to the community plan for its community plan area. The mayor and council shall appoint the members of each community plan advisory committee in accordance with the timing established in subsection A.

D. Each community plan advisory committee shall select a chair and vice-chair. The director of planning shall be responsible for providing staff to support the work of the community plan advisory committees, which shall include department staff and, at the director of

planning's discretion, outside consultant services. Each community plan advisory committee shall hold at least seven public workshops at times and locations convenient to the general public to allow public participation in the process. The public workshops shall be facilitated by a qualified professional and shall include one or more table-top exercises where the public will be invited to provide input using maps and other devices.

E. Within one hundred eighty days after its first meeting, a community plan advisory committee shall forward its recommended revisions to the director of planning.

F. Each community plan advisory committee shall remain in existence until enactment of an ordinance adopting the decennial revision to the relevant community plan.

2.80B.090 Decennial revisions to the community plans. A. In processing proposed decennial community plan revisions, the director of planning shall:

1. Transmit revisions prepared and recommended by the director of planning to the appropriate community plan advisory committee;

2. Make the revisions prepared and recommended by the director of planning available for public inspection and copying pursuant to the Uniform Information Practices Act; and

3. Assist the appropriate community plan advisory committee to conduct public meetings, public workshops, and public hearings.

B. Within thirty days after a community plan advisory committee has forwarded its recommended revisions, the director of planning shall place the community plan advisory committee's recommended revisions on a meeting agenda of the appropriate planning commission for a meeting in the community plan area.

C. No later than one hundred eighty days after the appropriate planning commission holds its first public hearing, the planning commission shall transmit the community plan advisory committee's recommended revisions and the planning commission's findings and recommendations to the council. The council may, by resolution, extend the time within which the transmittal may be made.

D. No later than one year after receipt of a transmittal pursuant to subsection C, the council shall adopt the community plan by ordinance following a public hearing in the community plan area.

E. The community plans, and any revisions thereto, shall be in printed form and shall be attached to and be

incorporated by reference into the ordinances adopting the respective plans.

F. Nothing in this section shall prevent concurrent processing of other actions related to the decennial revisions to the community plans. Where a decennial revision to a community plan directly triggers an amendment to the general plan, such matters shall be processed concurrently.

2.80B.100 Non-decennial amendments to community plans proposed by the director of planning or the council. A. Non-decennial amendments to community plans may be proposed by the director of planning or by the council by resolution. All proposed amendments shall be referred to the appropriate planning commission for findings and recommendations. Proposals for non-decennial amendments to a community plan made pursuant to this section shall be processed in accordance with sections 8-8.4 and 8-8.6 of the charter.

B. Prior to approving any amendment to a community plan pursuant to this section, the council shall hold a public hearing regarding the amendment in the relevant community plan area.

C. Nothing in this section shall prevent concurrent processing of other actions related to a proposed amendment. Where an amendment to a community plan directly triggers an amendment to the general plan, such matters shall be processed concurrently.

2.80B.110 Non-decennial amendments to community plans proposed by a person. A. Non-decennial amendments to any community plan enacted pursuant to section 2.80B.090, except the Moloka'i community plan, may be proposed by a person during July of each year, provided that such amendments shall not be accepted within [three years] one year after the enactment of the community plan pursuant to section 2.80B.090. Non-decennial amendments to the Moloka'i community plan enacted pursuant to section 2.80B.090 may be proposed by a person during July of each year, provided that such amendments shall not be accepted within five years after the enactment of a decennial revision to the community plan pursuant to section 2.80B.090.

B. Applications shall follow the procedures set out in sections 19.510.010 and 19.510.020 of this code, shall include the application fee as set forth in the County budget, and shall be processed as if prepared by the director of planning pursuant to section 8-8.4 of the charter. An environmental assessment or environmental impact statement prepared in accordance with chapter 343,

Hawai'i Revised Statutes, shall be submitted along with the application.

C. No later than one year after receipt of the planning commission's transmittal pursuant to section 8-8.4, the council shall review and act upon the proposed amendment.

D. Prior to approving any amendment to a community plan pursuant to this section, the council shall hold a public hearing regarding the amendment in the relevant community plan area.

E. Nothing in this section shall prevent concurrent processing of other actions related to a proposed amendment.

F. Effect of adoption of the general plan and the community plans. Until revised or amended pursuant to this chapter, the general plan and the current community plan for each community plan district shall remain in full force and effect."

SECTION 3. Severability. Should any word, phrase, sentence, paragraph, section, or other provision of this chapter be declared invalid by a court of competent jurisdiction, the provisions of this chapter that may be given effect without the invalid portion shall remain in full force and effect. Should any portion of this chapter be determined invalid as to its application on any island in the County, then those provisions of this chapter that remain valid shall be the applicable law for that island where such provision has been declared invalid.

SECTION 4. This ordinance shall take effect upon its approval. This ordinance shall not be applicable to applications filed and complete prior to the effective date of this ordinance.

APPROVED AS TO FORM
AND LEGALITY:



DUDLEY G. AKAMA
Deputy Corporation Counsel
County of Maui

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