

### Proposal No. 3 – Elected Community Boards

Changing Planning & Variance Process to Include Elected Community Boards for Every Community Plan Area on Maui, Molokai and Lanai Planning Commissions Become Directly Elected

*TEXT OF THE AMENDMENT* (New material underscored, deleted material bracketed)

#### CHAPTER 8 DEPARTMENT OF PLANNING

**Section 8-8.1. Organization.** There shall be a department of planning consisting of a Maui planning commission, a Moloka`i planning commission and a Lāna`i planning commission, a planning director, a board of variances and appeals and the necessary staff.

**Section 8-8.2. Planning Director.** The planning director shall be appointed and may be removed by the mayor. The planning director shall have had five years of experience in the field of planning, three of which shall have been in an administrative capacity.

**Section 8-8.3. Powers, Duties, and Functions.** The planning director shall:

1. Be the administrative head of the department of planning.
2. Serve as the chief planning officer of the county and as the technical advisor to the mayor, council and planning commissions on all planning and related matters.
3. Recommend revisions of the general plan at least every ten (10) years to guide the development of the county.
4. Prepare, administer, and enforce long-range planning programs.
5. Prepare, administer, and enforce a cultural resource management program.
6. Prepare, administer, and enforce zoning ordinances, zoning maps and regulations and any amendments or modifications thereto.
7. Review the lists of proposed capital improvements projects contemplated by the county and recommend the order of their priority to the mayor.
8. Perform such other duties and functions as shall be required by law or as shall be assigned by the mayor.

**Section 8-8.4. Planning Commissions.** [Each] The Maui planning commission shall consist of [nine] seven members appointed one from each Community Board, on the island of Maui, from among their membership and one member appointed [by the mayor with the approval of the council] to represent Kaho'olawe who shall serve for not more than one term of four years and shall not have a vote. The Molokai planning commission shall consist of the nine members of the Molokai Community Board. The Lanai planning commission shall consist of the nine members of the Lanai Community Board. [The members of each planning commission shall be residents of the island of the planning commission on which the member serves. The director of the department of public works and environmental management and the director of the department of water supply shall be non-voting ex-officio members of each commission.]

Each planning commission shall exercise its powers, duties, and functions as follows:

1. The Maui planning commission shall be concerned with the area encompassing the islands of Maui and Kaho'olawe and all other islands lying within three nautical miles of the shores thereof,

and the waters adjacent thereto.

2. The Moloka`i planning commission shall be concerned with the area encompassing the island of Moloka`i and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto, except that portion of the island known as Kalaupapa, Kalawao, and Waikolu and commonly known and designated as the Kalaupapa Settlement.

3. The Lāna`i planning commission shall be concerned with the area encompassing the island of Lāna`i and all other islands lying within three nautical miles of the shores thereof, and the waters adjacent thereto.

The appropriate planning commission shall:

1. Advise the mayor, council, and the planning director in matters concerning planning programs.
2. Review the general plan and revisions thereof prepared by the planning director or at the request of the council. The commission shall hold public hearings on such plans and revisions thereof and shall transmit them, with its findings and recommendations to the council for consideration and action no later than one hundred eighty (180) days after the final public hearing.
3. Review other proposed land use ordinances and amendments thereto prepared by the director or the council and, after public hearings, transmit such ordinances with its findings and recommendations thereon to the council for consideration and action no later than one hundred twenty (120) days after the final public hearing.
4. Act as the authority in all matters relating to the Coastal Zone Management law.
5. Adopt rules pursuant to land use ordinances or law.
6. Have such other powers and duties as may be provided by law.

#### **Section 8-8.5. General Plan and Community Plans.**

1. 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.

2. The general plan shall indicate desired population and physical development patterns for each island and region within the county; shall address the unique problems and needs of each island and region; shall explain the opportunities and the social, economic, and environmental consequences related to potential developments; and shall 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.

3. The planning director 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.

4. [There shall be a citizen advisory committee for each community plan area. Each citizen advisory committee shall consist of thirteen members, with nine appointed by the council and four appointed by the mayor.] Each [citizen advisory committee] Community Board is charged with reviewing and recommending revisions to the community plan for its community plan area. Each citizen advisory committee shall remain in existence until its revisions are adopted, modified, or rejected by the council and until such action is approved, modified, or rejected by the mayor.

5. The community plans created and revised by the [citizen advisory committees] Community Boards shall set forth, in detail, land uses within the community plan regions of the county. The objectives of each community plan shall be to implement the policies of the general plan. 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.

6. The community plans generated through the [citizen advisory councils] Community Boards and accepted by the planning commission, council, and mayor are part of the general plan.

**Section 8-8.6. Adoption of General Plan and Other Land Use Ordinances.**

1. The county shall adopt revisions to the general plan by ordinances.
2. Any revisions of the general plan, zoning ordinance or other land use ordinance may be proposed by the council and shall be reviewed by the appropriate planning commission as if prepared by the planning director. Any such revision shall be referred to the appropriate planning commission by resolution. If the planning commission disapproves the proposed revision or recommends a modification thereof, not accepted by the council, or fails to make its report within a period of the hundred twenty (120) days after receipt of the referral, the council may nevertheless pass such revision, but only by the affirmative vote of at least two thirds of the council's entire membership.
3. Revisions to the general plan proposed by the planning director shall be reviewed and acted upon by the council no later than one (1) year after receipt of the transmittal from the planning director.
4. Revisions to zoning and land use ordinances proposed by the planning director shall be reviewed and acted upon by the council no later than one hundred eighty (180) days after receipt of the transmittal from the planning director.

**Section 8-8.7. Board of Variances and Appeals.** The board of variances and appeals shall consist of [nine] eight members appointed one from each Community Board on the island of Maui and one from Molokai and one from Lanai [by the mayor with the approval of the council]. In accordance with such principles, conditions and procedures prescribed by the council, the board of variances and appeals shall:

1. Hear and determine applications for variances from the strict application of any zoning, subdivision or building ordinances. The board shall hold a public hearing prior to ruling on a variance application and shall issue findings of fact and conclusions of law on decisions granting or denying variance applications.
2. Hear and determine appeals alleging error from any person aggrieved by a decision or order of any department charged with the enforcement of zoning, subdivision, and building ordinances; provided, that the council may by ordinance confer to another county agency the authority to hear and determine appeals from the decisions of the building official in the administration of the county of Maui building code, plumbing code, electrical code, and housing code, and from any order made by the county fire chief in the administration of applicable state law and the county of Maui fire code, and the director of water supply in the administration of the rules and regulations of the department of water supply relating to matters involving any denial of the use of new or alternate materials, types of construction, equipment, devices or appliances.
3. Hear and determine all other matters which the board may be required to pass on pursuant to ordinances.
4. Adopt rules of procedure for the conduct of the board's business.

CHAPTER 18  
COMMUNITIES AND COMMUNITY BOARDS

**Section 8-18.1. Communities and Community Boards.** Communities and community boards, to increase and assure effective citizen participation in the decisions of government, shall be established.

**Section 8-18.2. Community Boards; Composition, Qualification.** Every community, as defined by the boundaries of the several community plans except Kaho'olawe, shall have a Community Board composed of nine at-large members elected by the voters of the community that the Board represents. To be eligible for election or appointment to a Community Board, a person must be a resident of the community from which the person seeks to be elected. If a person ceases to be a resident of the community area or is adjudicated of a felony, the Board member shall immediately forfeit office and the seat shall thereupon become vacant.

**Section 8-18.3. Community Board Elections and Terms of Office.**

1. Community Board members shall be elected by nonpartisan special elections conducted with the regular special elections for Council.

2. First special election. Two candidates receiving the most votes for each available seat shall be advanced the second special election. If, after the close of filing of nomination papers, there are only two qualified candidates for any seat, the Clerk shall declare those two candidates advanced for the second special election. The names of those two candidates shall not appear on the first special election ballot.

3. Each voter in the second special election shall be entitled to vote for the number of Board seats available for their respective Community Board.

4. In the event that the number of qualified candidates is equal or less than the number of such seats to be filled, after the close of filing of nomination papers, the Clerk shall declare such candidates to be duly and legally elected.

5. The term of office of Community Board member shall be for four (4) years, beginning at twelve o'clock meridian on the second day of January following their election. The terms shall be staggered so that the five highest vote getting candidates in the first election for Community Board shall serve a four year term and the remaining candidates elected shall serve a term of two years – all of which shall be considered full terms. No member of a Community Board shall serve more than two consecutive full terms of office.

**Section 8-18.4. Vacancies in Office.** A vacancy in the office of any Community Board member shall be filled for the remainder of the unexpired term in the following manner:

1. If the unexpired term is less than twenty seven (27) months, the remaining members of the Community Board shall appoint a person by resolution adopted by a majority of its remaining members to fill the vacancy for the current unexpired term. Should the Community Board fail to fill any vacancy within thirty (30) days after its occurrence, the mayor shall appoint a person to fill the vacancy for the current unexpired term. The person appointed by the Community Board or mayor shall have the same qualifications required of a candidate elected by the voters.

2. If the unexpired term is more than twenty seven (27) months, the vacancy shall be filled by a special election to be held in conjunction with the regular second special election. The electors of the Community shall then elect a successor to fill the vacancy for the remainder of the term. At the special election, the candidate receiving the highest number of votes shall be deemed elected.

**Section 8-18.5. Procedure; Meetings, Rules, Voting.** Each Community Board shall meet at their regular meeting place at two o'clock p.m. on the second day of January following its election, or on the following Monday if the second day be a Saturday or Sunday, at which time it shall elect one of its members as chair and presiding officer of the Community Board. Until such time as the chair shall be elected, the Community Board member having received the highest number of voters shall preside at such meeting. Community Boards shall follow the newest edition of Robert's Rules of Order except for such other uniform and general procedures applicable to all Community Boards adopted by ordinance.

**Section 8-18.6. Powers of the Board.** (a) The Community Boards are responsible for actively participating in the functions and processes of government by identifying, addressing, communicating, and seeking solutions to community issues and concerns, both within and outside of their respective community plan areas. Their actions should reflect the needs, wants, and interests of the community. Boards may take the initiative in selecting and prioritizing their activities, and provide reasonable means to increase and assure effective citizen participation in the decisions of government. The powers, duties, and functions of boards shall include:

1. Increase and assure effective citizen participation in the decisions of government by providing additional and improved opportunities for public input and interaction, and communicating that input to the appropriate persons and agencies;
2. Initiate, review, comment, and make recommendations concerning any general plan, communities plan, zoning, planning, permitting, and other land use issues within the county and each respective community;
3. Review and recommend revisions to the community plan for its community plan area as the citizen advisory committee;
4. Identify, prioritize, review, comment, and make recommendations concerning any government capital improvement proposal, plan, or project;
5. Assist with evaluations of the efficiency and effectiveness of government services and programs, whether provided by government agencies or their contractors;
6. Initiate, review, comment, and make recommendations concerning any other substantive issue reasonably related to the processes or decisions of government;
7. Encourage understanding of the decision-making processes of government; and
8. Encourage the role of the board as a public and informational forum on community and governmental issues.

(b) Boards may communicate and cooperate with each other, especially on a regional basis, to promote general awareness and understanding of issues of mutual concern, explore opportunities for collaboration, and foster beneficial relationships to further increase and assure effective citizen participation in the decisions of government. Each board may express its neighborhood's view, opinion, or advice on matters within the scope of the board's jurisdiction to properly fulfill its duty. No deference is required of a board to any other board. Boards may cooperate and collaborate with persons, agencies, and community organizations so long as the cooperation and collaboration does not exceed the powers, duties, and functions of boards as allowed by law.

(c) Each Community Board on the island of Maui shall appoint among themselves, by majority vote, one member of the Maui Planning Commission. The Community Board member on

the Maui Planning Commission shall remain a member of the Maui Planning Commission until the end of the Community Board member's current term of office, or until the adoption of a resolution of no confidence, by two thirds of the Community Board members. The Maui Island community boards shall be afforded ninety (90) days after official transmission to said board or boards to review and comment on all matters properly before the Maui Planning Commission that affect or touch upon the community plan areas under the Community board's purview.

(d) The Molokai Community Board shall be the Molokai Planning Commission. The Lanai Community Board shall be the Lanai Planning Commission.

(e) Each Community Board shall appoint among themselves, by majority vote, one member of the Board of Variances and Appeals. The Community Board member on the Board of Variances and Appeals shall remain a member of the Board of Variances and Appeals until the end of the Community Board member's current term of office unless the member first resigns or otherwise vacates the office.

#### QUESTION TO VOTERS:

Shall there be established Community Boards for each community plan area elected by the residents therein to increase public participant and advocate for their community; for Molokai, the elected Community Board shall be the Molokai Planning Commission, and for Lanai, the elected Community Board shall be the Lanai Planning Commission; and for Maui, each elected Community Board shall appoint one of its members each to sit on the Maui Planning Commission and one member shall continue to be appointed by the Mayor to represent Kahoolawe but shall have no vote; and that each elected Community Board shall appoint one of its members each to sit on the Board of Variances and Appeals; and these Community Boards shall replace the Citizen Advisory Committees in the Community Plan process?