

Resolution

No. 25-135

PROPOSING AN AMENDMENT TO THE
REVISED CHARTER OF THE COUNTY OF MAUI
(1983), AS AMENDED, ON THE PLANNING
COMMISSIONS' REVIEW OF GENERAL PLAN
AND LAND USE ORDINANCES

WHEREAS, Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, contain inconsistent deadlines for the planning commissions' review of various General Plan and land use ordinances; and

WHEREAS, Section 8-8.4 provides the planning commissions 180 days after the final public hearing to transmit their recommendations to the Council on general plan revisions requested by the Council, and 120 days after the final public hearing to transmit their recommendations to the Council on zoning and other land use ordinances prepared by the Council; and

WHEREAS, Section 8-8.6 provides that the Council may pass any revision to the general plan, zoning ordinance, or other land use ordinance it proposed if the planning commission fails to make its recommendation within 120 days after receipt of the referral, and is more specific in detailing the process for the Council to initiate land use changes; and

WHEREAS, these inconsistencies create uncertainty in administering the deadlines for planning commission review of Council-initiated land use changes; and

WHEREAS, the Council finds that it would be clearer to use a single trigger for the calculation of time within which planning commission review should occur and that the date of the final public hearing is manageable for the Department of Planning; and

WHEREAS, the Council further finds that making the deadlines for Council-initiated revisions to the general plan and Council-initiated zoning or other land use ordinances consistent with the deadlines for proposed ordinances prepared by the Planning Director will ease administration of the land use entitlement process; and

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WHEREAS, the Council also finds that accommodating this change requires a commitment that the Council-initiated general plan revision, zoning ordinance, or other land use ordinance be set for a public hearing within a defined time, and that 60 calendar days from the date the resolution is transmitted to the Department of Planning is reasonable; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That, in accordance with Charter Section 14-1(1), it proposes that Charter Section 8-8.4 be amended to read as follows, with deleted material in brackets and new material underscored:

"Section 8-8.4. Planning Commissions. 1. Each planning commission consists of nine members appointed by the mayor with the approval of the council. The members of each planning commission [shall] must be residents of the island of the planning commission on which the member serves. The directors of the departments of 'Ōiwi resources, public works, environmental management, and water supply [shall be] are non-voting ex-officio members of each commission.

2. Each planning commission [shall] must exercise its powers, duties, and functions as follows:

[1.] a. The Maui planning commission [shall be] is concerned with the area encompassing the islands of Maui and Kaho'olawe and all other islands lying within three nautical miles of [the] their shores [thereof], and the waters adjacent [thereto.] to their shores. The nine members must include at least one and no more than two members who reside in each council residency area on the island of Maui.

[2.] b. The Moloka'i planning commission [shall be] is concerned with the area encompassing the island of Moloka'i and all other islands lying within three nautical miles of [the] its shores [thereof], and the waters adjacent [thereto,] to its shores, except that portion of the island of Moloka'i excluded from the County's jurisdiction by state law.

[3.] c. The Lāna'i planning commission [shall be] is concerned with the area encompassing the island of Lāna'i and all other islands lying within three nautical miles of [the]

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its shores [thereof], and the waters adjacent [thereto.] to its shores.

3. The appropriate planning commission shall:

[1.] a. Advise the mayor, [the] council, and [the] planning director [in] on matters concerning planning programs.

[2.] b. Review any revisions to the general plan [and revisions thereof] prepared by the planning director or at the council's request [of the council]. The commission [shall] must hold public hearings on [such plans and revisions thereof] revisions to the general plan and [shall] transmit [them,] the revisions to the general plan, with its findings and recommendations, to the council for consideration no later than [one hundred eighty] 180 days after the final public hearing.

[3.] c. Review proposed land use ordinances [and amendments] prepared by the director or the council and, after public hearings, transmit [such] the ordinances with findings and recommendations to the council for consideration [and action] no later than [one hundred twenty] 120 days after the final public hearing.

[4.] d. Act as the authority [in] on all matters relating to the Coastal Zone Management law.

[5.] e. Adopt rules [pursuant to] in accordance with land use ordinances or law.

[6.] f. Have other powers and duties [as] provided by law.”;

2. That, in accordance with Charter Section 14-1(1), it proposes that Charter Section 8-8.6 be amended to read as follows, with deleted material in brackets and new material underscored:

“Section 8-8.6. [Adoption] Passage of General Plan and Other Land Use Ordinances.

1. The [County shall adopt] council must pass revisions to the general plan by ordinance.

2. Any revisions [of] to the general plan, zoning ordinance, or other land use ordinance may be proposed by the council [and shall be reviewed] by resolution for referral to and review by the appropriate planning commission as if prepared by the planning director. [Any such revision shall

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be referred to the appropriate planning commission by resolution.] The planning director must set the bill attached to the resolution for a public hearing before the appropriate planning commission within 60 days of the resolution being transmitted to the department. If the planning commission [disapproves]:

a. Disapproves or recommends a modification to the proposed revision [or recommends a modification thereof,] that is not accepted by the council[, or fails to];

b. Fails to make its report within [a period of the hundred twenty] 180 days after [receipt of the referral,] the planning commission's final public hearing on the general plan revision; or

c. Fails to make its report within 120 days after the planning commission's final public hearing on the zoning or other land use ordinance,

the council may nevertheless pass [such] the revision[, but only] by [the] an 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] should be reviewed and acted upon by the council no later than one year after [receipt of] the council receives the planning director's transmittal [from the planning director].

4. Revisions to zoning and other land use ordinances proposed by the planning director [shall] should be reviewed and acted upon by the council no later than [one hundred eighty] 180 days after [receipt of] the council receives the planning director's transmittal [from the planning director].";

3. That, in accordance with Charter Section 14-1(1), it proposes Charter Article 15 be amended by adding a new section to be appropriately designated and to read as follows, with new material underscored:

"Section 15-2. Transitional Provision Relating to Planning Commission Deadlines. Upon adoption of the proposed 2026 amendments to Sections 8-8.4 and 8-8.6, any revisions to the general plan, zoning ordinance, or other land use ordinance proposed by the council, whether received by

the department before the amendment's effective date or not, will be subject to the following deadlines:

1. To set the bill attached to the resolution for a public hearing before the appropriate planning commission within 60 days of the department's receipt of the resolution.

2. To transmit the planning commission's report to the council within the timeframes in Section 8-8.6, as amended.”;

4. That, in accordance with Charter Section 14-2(1), this Resolution be submitted to the voters of the County of Maui at the next General Election;

5. That the County Clerk prepare the necessary ballot for presentation to the voters at the next General Election;

6. That, in accordance with Charter Section 14-1(1), it proposes that the following question be placed on the next General Election ballot:

“Shall the Charter be amended, effective January 2, 2027, to provide clarity and consistency in deadlines for planning commission review of revisions to the general plan, zoning ordinances, and other land use ordinances proposed by the council, and transmittal of related findings and recommendations to the council?”;

7. That, in accordance with Charter Section 14-2(2), the County Clerk must publish the proposed amendment in this Resolution in its entirety in a newspaper of general circulation;

8. That, on approval by a majority of the voters voting on the proposed amendment and on official certification of the result, the amendment proposed in this Resolution takes effect on January 2, 2027;

9. That, as authorized by Charter Section 14-4, the County Clerk must revise and publish in its entirety a revised Charter including amendments adopted in this Resolution and renumber provisions and cross-references as may be necessary by the approval of the revisions or amendments; and

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10. That certified copies of this resolution be transmitted to the Mayor, Planning Director, and County Clerk.

APPROVED AS TO FORM AND LEGALITY

A handwritten signature in black ink, consisting of a stylized 'Z' or 'N' shape followed by a horizontal line.

Department of the Corporation Counsel
County of Maui

paf:cmn:24-200d

INTRODUCED BY:

Tamara A.M. Paltin

TAMARA PALTIN