

# Appendix V1: CDP Purpose and Scope

## 2 Summary

3 This appendix includes excerpts from the County Charter, the General Plan, the Hawai'i County Code, and a  
4 memo from the Planning Director that speak to the purpose and scope of Community Development Plans.  
5 This section summarizes the more detailed information in the remainder of the appendix.

## 6 Purpose

7 The General Plan shall set forth the County Council's policy for long-range comprehensive physical  
8 development of the County.

9 The purpose of CDPs is to **implement the broad goals within the General Plan on a regional basis** and  
10 **translate the broad General Plan statements to specific actions**. CDPs are the **forum for community input**  
11 **into coordinating the delivery of government services** to the community.

## 12 Scope

13 The General Plan shall contain a statement of development objectives, standards and principles with respect  
14 to

- 15 ▪ The most desirable **use of land**
- 16 ▪ **Conservation of natural resources**
- 17 ▪ **Preservation of our natural beauty and historical sites**
- 18 ▪ The most desirable **density of population**
- 19 ▪ **Thoroughfares, highways, and streets**
- 20 ▪ **Public access** to the shorelines
- 21 ▪ **Open spaces**
- 22 ▪ **Public buildings, public utilities, and terminals** for water, sewers, light, power, transit, and other purposes
- 23 ▪ **Public housing**
- 24 ▪ **Drainage** facilities and control
- 25 ▪ **Air pollution**.

26 Community Development Plans:

- 27 ▪ **Direct Land Use, Zoning, Growth, Development, and Design**. For example, CDPs detail land use policies,  
28 direct physical development, are the forum for community input into managing growth, designate and  
29 coordinate detailed development patterns, may contain detailed land use and zoning guide maps, and may  
30 contain...architectural design guidelines.
- 31 ▪ May contain planning for **watersheds and other natural features**
- 32 ▪ **Direct public improvements**: For example, CDPs designate and coordinate infrastructure needs, detail  
33 infrastructure priorities, and may contain plans for infrastructure and public facilities.



- 1 ▪ **Detail transportation policies** and may contain plans for roadways.
- 2 ▪ May contain plans for **drainage**
- 3 ▪ **Detail recreation policies** and may contain plans for parks.
- 4 ▪ May contain **plans for any other matters** relating to the planning area.

## 5 **Actions**

6 Community Development Plans shall identify appropriate governmental actions that include:

- 7 ▪ **Regulatory actions:** The Community Development Plans shall recommend amendments as appropriate to the  
8 codes, maps, or administration and enforcement.
- 9 ▪ **Incentive measures**
- 10 ▪ **Acquisition actions:** The Community Development Plans shall identify acquisition priorities, as appropriate, and  
11 seek means to leverage financing by working creatively with the landowner, other levels of government, land  
12 trusts, and/or nonprofit groups.
- 13 ▪ **Capital budgeting actions:** The Community Development Plans shall identify and prioritize public facility projects  
14 important to the community. The capital improvements program shall take into consideration the recommendations  
15 in the Community Development Plans.
- 16 ▪ **Programs:** Community Development Plans shall identify desired programs and the community's role in planning  
17 and implementing the programs.
- 18 ▪ **Development/Redevelopment:** Community Development Plans shall identify desired projects for public  
19 development or redevelopment.

## 20 **County Charter**

### 21 **Section 3-15. General Plan.**

22 The county council shall adopt by ordinance a general plan which **shall set forth the council's policy for long-range**  
23 **comprehensive physical development of the county.** It shall contain a statement of development objectives,  
24 standards and principles with respect to

- 25 ▪ the most desirable **use of land** within the county for residential, recreational, agricultural, commercial, industrial  
26 and other purposes which shall be consistent with proper **conservation of natural resources** and the **preservation**  
27 **of our natural beauty and historical sites;**
- 28 ▪ the most desirable **density of population in the several parts of the county;**
- 29 ▪ a system of principal **thoroughfares, highways, streets, public access to the shorelines,** and other **open spaces;**
- 30 ▪ the general locations, relocations and improvement of **public buildings,** the general location and extent of **public**  
31 **utilities and terminals,** whether publicly or privately owned, for water, sewers, light, power, transit, and other  
32 purposes;
- 33 ▪ the extent and location of **public housing** projects;
- 34 ▪ adequate **drainage** facilities and control;



- 1 ▪ **air pollution**; and
- 2 ▪ such other matter as may, in the council’s judgment, be beneficial to the social, economic, and governmental
- 3 conditions and trends and shall be designed to assure the coordinated development of the county and to
- 4 promote the general welfare and prosperity of its people.
- 5 a) The council shall enact zoning, subdivision, and such other ordinances which shall contain the necessary
- 6 provisions to carry out the purpose of the general plan.
- 7 b) No public improvement or project, or subdivision or zoning ordinance, shall be initiated or adopted unless
- 8 the same conforms to and implements the general plan.

9 **Section 6-7.2. Planning Director.**

- 10 b) The director shall be the chief planning officer of the county and the administrative head of the
- 11 department and shall:...2) Prepare a general plan, **implementation plans** and any amendments thereto in
- 12 Accordance with Section 3-15.

13 **General Plan**

14 **Section 14.1.1: Land Use: Overview: Introduction and Analysis**

15 The land use element sets forth goals, policies, and standards to guide the location and density, and building

16 intensities of land uses in particular areas. **Regional and/or Community Development Plans are intended**

17 **to implement the broad goals within the General Plan on a regional basis.** They serve to **designate and**

18 **coordinate detailed development patterns and infrastructure needs** throughout the County. The Plans

19 **detail land use policies and infrastructure priorities, transportation, recreation and other major land**

20 **use policies** within each area, and must be developed with participation by the affected communities and

21 adopted by ordinance by the County Council.

22 **Section 15.1: Plan Implementation: Community Development Plans**

23 The Community Development Plans are intended to be **the forum for community input into managing**

24 **growth and coordinating the delivery of government services to the community.** The Community

25 Development Plans will **translate the broad General Plan statements to specific actions** as they apply to

26 specific geographical areas.

27 A Community Development Plan should **direct physical development and public improvements** within a

28 specific area. **The Community development Plan may contain detailed land use and zoning guide maps,**

29 **plans for roadways, drainage, parks, and other infrastructure and public facilities, architectural design**

30 **guidelines, planning for watersheds and other natural features, and any other matters relating to the**

31 **planning area....**

32 The Community Development Plans shall **focus on action.** The courses of action specified in each element of

33 the General Plan need greater detail and need to be coordinated by district. **The Community Development**

34 **Plans shall identify appropriate governmental actions that include:**

- 35 ▪ **Regulatory actions.** Regulations rely on government’s police power to control what people can and cannot
- 36 do in the interest of the public’s health, safety, or welfare. The County administers and enforces various
- 37 regulations to control land use. These regulations include the zoning code, subdivision code, flood control
- 38 code, grading code, sign code, and building code. The County also administers requirements imposed by
- 39 the Federal and State governments, such as the Coastal Zone Management Act and the State Land Use
- 40 Law. **The Community Development Plans shall recommend amendments as appropriate to the codes,**
- 41 **maps, or administration and enforcement.**

- 42 ▪ **Incentive measures.** Where regulatory controls are the government’s “sticks”, incentives are the “carrots” to

1 encourage certain actions. Too often, regulation is the solution. Regulation can be restrictive, reactive, and divisive.  
2 Incentive measures, on the other hand, can invite creative “win-win” solutions. Examples of incentive measures  
3 include property tax exemptions such as for agricultural or native forest dedications, expedited permit processing,  
4 density bonuses, and discounted facility fees. Community Development Plans shall consider appropriate incentive  
5 measures to achieve various objectives, as applicable.

6 ▪ **Acquisition actions.** Where significant resources are located on private property, it may be more appropriate for  
7 government to purchase the development rights or fee simple title rather than to severely regulate the owner’s  
8 use of the property. Obviously, purchasing in reaction to development proposals is expensive. **The Community  
9 Development Plans shall identify acquisition priorities, as appropriate, and seek means to leverage financing by  
10 working creatively with the landowner, other levels of government, land trusts, and/or nonprofit groups.**

11 ▪ **Capital budgeting actions.** The County annually prepares a capital improvements budget where public facility  
12 projects (new construction or major repairs) are identified. The budget is accompanied by a six-year capital  
13 improvements program (CIP). The CIP process is explained in more detail below. **The Community Development  
14 Plans shall identify and prioritize public facility projects important to the community. The CIP shall take into  
15 consideration the recommendations in the Community Development Plans,** recognizing that the CIP must  
16 reconcile competing interests for a limited amount of funds.

17 ▪ **Programs.** Certain community needs do not necessarily require land or a new facility, but rather a focused  
18 commitment of time and money towards achieving specific objectives. These operational projects are referred to  
19 as programs. Examples include an after-school youth program, neighborhood watch program, or mediation training  
20 program. Too often, resources are diverted to studies that could be more effectively used for pilot programs that  
21 actually try to achieve results and provide lessons through action. **Community Development Plans shall identify  
22 desired programs and the community’s role in planning and implementing the programs.**

23 ▪ **Development/Redevelopment.** In very special situations, it may be appropriate for government to take the lead  
24 and act as developer either singly or as a public/private partnership. These situations arise when the private  
25 market fails to address certain needs, such as very low income housing, or when the situation is quite large-scale,  
26 complex, and especially requires government’s power of eminent domain to assemble land for redevelopment.  
27 **Community Development Plans shall identify desired projects for public development or redevelopment,** and  
28 shall coordinate input from appropriate agencies such as the Office of Housing and Community Development or  
29 the U.S. Department of Housing and Urban Development.

### 30 **Planning Director’s Memo Dated May 1, 2008 to the CDP Steering Committees Regarding** 31 **the CDP Legal Effect: Excerpts**

32 “A plan, like a CDP, is a guide to future actions. A plan exists to create a long-range framework and direction for  
33 specific decisions. **It is not self-implementing, and it is not the action itself.** A CDP, for example, may direct that  
34 rezoning in the CDP area follow certain criteria, but it does not in itself rezone land....

35 “The CDP’s and the General Plan are not directly regulatory in this sense: **you will not be able to cite a member  
36 of the general public for violating some provision of CDP. Their regulatory effect is that they guide, and in some  
37 cases mandate, how other regulatory programs are handled.**

38 “In this letter, whenever it says that a provision in the CDP is “legally binding”, or “mandatory”, it means that a court  
39 could enforce the CDP to overturn a decision that had been made by the county council, planning commission, or  
40 other county decision-making body, based on language in the CDP. Or, that because of language in the CDP, a court  
41 could order the county to take certain actions. In practical terms, this is the real meaning of the CDP being legally  
42 binding or mandatory. As discussed below, because the CDP is enacted as a law of the county, **the county council,  
43 mayor, and other county officials like the department heads are supposed to implement the CDP in good faith,** but  
44 in many instances, reasonable people may differ on how to implement the CDP in a particular situation, and a court’s  
45 role in overturning decisions made by the legislative and executive branches of government, within their spheres of  
46 authority, is limited....



1 “Thus, any rezoning ordinance must be consistent with the General Plan...The General Plan will sometimes  
2 prohibit certain zoning in an area, but it will rarely if ever mandate it because zoning also depends upon  
3 site-specific issues, like flooding, infrastructure, traffic, and historic sites, that are not fully analyzed at  
4 the General Plan LUPAG map level, and it is also subject to the timing of development: an area may be  
5 designated urban on the General Plan but it may be that it shouldn’t be developed until infrastructure has  
6 been improved, or other areas are developed first.

7 “A land use plan like the General Plan or CDP typically functions as a guide to other land use decisions, such  
8 as rezoning, although not always with mandatory language. So **a CDP can have a policy that is worded in a  
9 way that is clearly mandatory and limits the range of decisions that can be made in the future...**

10 “In contrast to such policies that are worded in a binding manner, and are relatively specific, the draft CDP’s  
11 have a great number of **policies and goals that are not legally binding**: they do not mandate or prohibit  
12 certain decisions. These are what the GATRI court called “hortatory”: **they are general statements about  
13 goals and policies, but are broad and open to interpretation....**

14 “Typically, the planning department will make a recommendation on any zoning or other land use request  
15 that goes to the council or planning commission, and try to analyze it against the goals and policies of the  
16 General Plan. The planning department should try to do the same using the CDP’s once they are enacted.

17 “Another type of policy that is not legally binding is one that calls for further follow-up action....

18 **“None of the policies, goals, or courses of action in the CDP’s that require future funding can legally  
19 mandate that the council appropriate those funds.”**