

## **CHAPTER 28**

### **STATE LAND USE DISTRICT BOUNDARY AMENDMENT PROCEDURES**

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**CHAPTER 28****STATE LAND USE DISTRICT BOUNDARY AMENDMENT PROCEDURES****Section 28-1. Title.**

This chapter may be cited as the State land use district boundary amendment procedures.

(1986, ord 86-126, sec 2.)

**Section 28-2. Scope and applicability.**

(a) The County council by ordinance may amend the districting of such lands fifteen acres or less located in the State land use urban, rural, and agricultural districts. This chapter, however, does not apply to those lands situated within the State land use conservation district classification.

(b) Filing of Petition.

(1) Petitions shall be on a form prescribed by the planning director and shall be filed with the planning department for processing, evaluation, and review pursuant to sections 28-4 and 28-5.

(2) A petition for a change in the boundary or a district involving lands fifteen acres or less presently in the urban, rural and agricultural districts may be filed by any department or agency of the State or County, or any person with a property interest in the land sought to be reclassified.

(3) Petitions may also be initiated by the County council by resolution of the council.

(1986, ord 86-126, sec 2.)

**Section 28-3. Contents of petition.**

(a) A petition for a district boundary amendment shall include the following:

(1) A description of the property, including the tax map key and acreage, with maps that identify the subject area.

(2) The exact legal name of each applicant and the location of the principal place of business, and if an applicant is a corporation, trust, or association, or other organized group, the state in which the applicant was organized or incorporated.

(3) The name, title and address of the person to whom correspondence or communication in regard to the application are to be addressed. Notice, orders, and other papers may be served upon the person so named, and such service shall be deemed to be service upon the applicant.

(4) A statement regarding the applicant's proprietary interest in subject property.

(5) The reclassification sought and the present use of the property.

(6) A statement regarding the reasons for the requested change. If development is proposed, a written description of the proposed development.

- (b) Upon receipt of a properly filed and completed petition, the planning director, on behalf of the County council shall serve a copy of the petition to the State land use commission and the State department of planning and economic development.\* (1986, ord 86-126, sec 2.)

\* **Editor's Note:** The department of planning and economic development was renamed the department of business, economic development, and tourism by Act 293, Session Laws of Hawai'i, 1990.

**Section 28-4. Review of petition by planning director.**

Within ninety days of acceptance of a petition or such longer period as may be agreed to by the applicant, the planning director shall submit the director's recommendation to either the windward or leeward planning commission, or both acting jointly, as provided for in the Charter. The director shall recommend either the approval or denial of the proposed amendment to the designated planning commission, or joint commission, subject to conditions which would further the intent of this chapter and the general plan and other related ordinances. (1986, ord 86-126, sec 2; am 2009, ord 09-118, sec 21.)

**Section 28-5. Review of petition by planning commission.**

- (a) For the purposes of this section, "planning commission" means either the windward or leeward planning commission, or both acting as a joint commission, as provided for in the Charter.
- (b) Within sixty days of the planning director's recommendation, the planning commission shall conduct at least one hearing on the petition. The planning commission, on behalf of the County council, shall notify the State land use commission and the State department of business, economic development, and tourism of the time and place of the hearing and the proposed amendments scheduled to be heard at the hearing. After conclusion of the hearing, the planning commission shall recommend either the approval or denial of the proposed amendment to the County council subject to conditions which would further the intent of this chapter and the general plan and other related ordinances. The planning commission shall forward a report concerning its findings and recommendation to the County council through the mayor. Prior to the planning commission's forwarding its report to the council, the applicant shall file with the planning department a map and description by metes and bounds of property as certified by a surveyor.

(1986, ord 86-126, sec 2; am 2009, ord 09-118, sec 22.)

**Section 28-6. Standards for review of petitions.**

In reviewing a district boundary amendment petition, consideration shall be given to the purposes of the existing and proposed districts as set forth in section 205-2, Hawai'i Revised Statutes, and the purpose of this chapter. No amendment shall be approved unless it conforms to the general plan. However, a proposed amendment may be combined with a request to change the general plan. (1986, ord 86-126, sec 2.)

**Section 28-7. Notification of decision.**

A change in the State land use district boundaries pursuant to this chapter shall become effective on the day designated by the County council in its decision. Within thirty days of the effective date of the County council's decision, the planning director, on behalf of the County council, shall transmit the decision and the description and map of the affected property to the State land use commission and the State department of planning and economic development.\*  
(1986, ord 86-126, sec 2.)

\* **Editor's Note:** The department of planning and economic development was renamed the department of business, economic development, and tourism by Act 293, Session Laws of Hawai'i, 1990.

**Section 28-8. Consolidated proceeding with other land use changes.**

A petition for a State land use district boundary amendment may be submitted for consolidated review and processing, including any public hearing, with other land use changes and applicable permits such as proceedings to amend the general plan or zoning of the affected land.  
(1986, ord 86-126, sec 2.)

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