

# Resolution

No. \_\_\_\_\_

REFERRING TO THE LANAI, MAUI, AND MOLOKAI  
PLANNING COMMISSIONS A PROPOSED BILL AMENDING  
SECTION 19.68.040, MAUI COUNTY CODE, RELATING TO  
CONDITIONS OF STATE LAND USE DISTRICT BOUNDARY  
AMENDMENTS


WHEREAS, the Council is considering a proposed bill to amend Section 19.68.040, Maui County Code, to require notification to the Council of conditions of state land use district boundary amendments that have not been fulfilled within specified time limitations, and to require the fulfillment of conditions within a maximum of three years if no time limitation is established by Council; and

WHEREAS, Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, require that the appropriate planning commissions review proposed land use ordinances and provide findings and recommendations to the Council; now, therefore,

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

1. That it hereby refers the proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 19.68.040, MAUI COUNTY CODE, RELATING TO CONDITIONS OF STATE LAND USE DISTRICT BOUNDARY AMENDMENTS", a copy of which is attached hereto as Exhibit "A" and made a part hereof, to the Lanai Planning Commission, the Maui Planning Commission, and the Molokai Planning Commission, pursuant to Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended; and
2. That it respectfully requests that the Lanai Planning Commission, the Maui Planning Commission, and the Molokai Planning Commission transmit their respective findings and recommendations to the Council as expeditiously as possible; and
3. That certified copies of this resolution be transmitted to the Mayor, the Planning Director, the Lanai Planning Commission, the Maui Planning Commission, and the Molokai Planning Commission.

APPROVED AS TO FORM AND LEGALITY

  
\_\_\_\_\_  
Department of the Corporation/Counsel  
County of Maui

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2013)

A BILL FOR AN ORDINANCE AMENDING SECTION 19.68.040,  
MAUI COUNTY CODE, RELATING TO CONDITIONS OF  
STATE LAND USE DISTRICT BOUNDARY AMENDMENTS

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

SECTION 1. Section 19.68.040, Maui County Code, is amended to read as follows:

**“19.68.040 Action by the county council.** A. Upon receipt of the appropriate planning commission's report and recommendations, the county council shall consider the application and may adopt the findings and recommendations, in whole or in part, or otherwise act upon the report and transcript or summary, and, in the council's discretion, hold further hearings and take further evidence and testimony in connection therewith, before taking final action.

Final action approving an application shall be by the adoption of an ordinance; provided, however, that lands identified by the state as important agricultural lands needed to fulfill the purposes of conserving and protecting agricultural lands, promoting diversified agriculture, increasing agricultural self-sufficiency and assuring the availability of agriculturally suitable lands, shall not be reclassified without meeting the standards and criteria established by the legislature and enactment of an ordinance approving the reclassification of such lands by an affirmative vote of at least two-thirds of the council's membership rather than the usual majority.

B. Prior to the enactment of an ordinance effecting any [reclassification/boundary change,] district boundary amendment, the council may impose conditions upon the applicant's use of the property, fulfillment of such conditions to be prerequisite to the adoption of such ordinance or applicable part thereof. Such conditions shall have already been performed prior to council action on the [reclassification/change of boundary] district boundary amendment or be enforceable by the county after council action. Conditions shall be fulfilled within the time limitation established by the council, or, if no time limitation is established, within [a reasonable time] three years of the effective date of the ordinance amending the state land use district boundary. Such conditions, if any, shall run with the land and be recorded in the bureau of conveyances or filed with the assistant registrar of the land court. Conditions shall be imposed only if the council finds such to be necessary to prevent adverse effects upon public health,

safety and welfare, and shall be reasonably conceived to fulfill needs arising directly out of proposed land use in the following respects:

1. Protection of the public from the potentially deleterious effects of the proposed use; or
2. Fulfillment of the need for public service demands created by the proposed use.

Such conditions shall be enforceable by the county, by appropriate action at law or equity, against the parties and their heirs, personal representatives, successors and assigns, and shall run with the land.

C. The planning director shall transmit a quarterly report to the council within thirty days after the end of each quarter of the fiscal year. The report shall identify the conditions that have not been fulfilled within the time limitations specified in subsection B, beginning with state land use district boundary amendments approved by ordinance on January 1, 2013, and thereafter.

[C.] D. Within sixty days of the effective date of enactment of an ordinance amending the state land use district boundaries a certified copy of the ordinance and a description and map of the affected property shall be transmitted to the state land use commission and the state [department] office of planning [and economic development] by the county planning director.”

SECTION 2. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:

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Department of the Corporation Counsel  
County of Maui

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