

COUNCIL OF THE COUNTY OF MAUI
WATER RESOURCES COMMITTEE

November 20, 2009

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Water Resources Committee, having met on October 13, 2009, makes reference to County Communication No. 09-282, from the Director of Water Supply, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.12, MAUI COUNTY CODE, RELATING TO WATER AVAILABILITY".

The purposes of the proposed bill are to: (1) exempt large lots, as defined in Section 18.16.270, Maui County Code (MCC), from the County's water availability policy (Chapter 14.12, MCC), provided that requests for water service are not sought; (2) clarify that the water availability policy only applies to "subdivisions", as defined in Chapter 14.01.040, MCC; and (3) clarify that appeals of the Director of Water Supply's decisions made pursuant to the water availability policy shall be heard by the Board of Variances and Appeals.

In addition, the proposed bill deletes building permits or other ministerial construction permits, to clarify that the requirements of the water availability policy only applies to subdivision applications.

According to the water availability policy, after the Director of Water Supply verifies a subdivision applicant's long-term reliable source of water, subdivision approval can then be granted by the Director of Public Works. The proposed bill adds Section 14.12.070, providing that the Board of Variances and Appeals, the agency that generally hears appeals relating to subdivision approvals, shall be the agency to hear appeals of the Director of Water Supply's decisions made pursuant to the water availability policy.

The Director of Water Supply explained that the proposed bill ensures that large lot subdivisions not requesting water service will be exempt from the water availability policy requirements. He further explained that if the lots are further subdivided, and requests for water service are made, compliance with the requirements of the water availability policy will be necessary.

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Your Committee voted 6-0 to recommend passage of the proposed bill on first reading, and filing of the communication. Committee Chair Victorino, Vice-Chair Pontanilla, and members Baisa, Kaho'ohalahala, Mateo, and Molina, voted "aye". Committee member Medeiros was excused.

Your Water Resources Committee RECOMMENDS the following:

1. That Bill No. _____ (2009), attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.12, MAUI COUNTY CODE, RELATING TO WATER AVAILABILITY", be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 09-282 be FILED.

This report is submitted in accordance with Rule 7 of the Rules of the Council.



MICHAEL P. VICTORINO, Chair

ORDINANCE NO. _____

BILL NO. _____ (2009)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.12, MAUI COUNTY CODE,
RELATING TO WATER AVAILABILITY

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

SECTION 1. Section 14.12.030, Maui County Code is hereby amended to read as follows:

"14.12.030 Exemptions. This chapter shall not apply to: [A. Building permits as described in chapter 18.28 of this code, or other ministerial construction permits that do not require new or additional water services;]

[B.]A. Subdivisions that do not require water service, such as family subdivisions as defined in section 18.20.280 of this code, consolidations and concurrent re-subdivisions that do not create additional developable lots, road widening lots, utility lots, or easements for access or utility purposes; or

B. Large lots as defined in section 18.16.270 of this code, provided that no permits or approvals which require water service or request water service are sought; or

C. Subdivisions that [will not be regulated as a public water system pursuant to] are not served by a public water system regulated by department of health rules; provided, that, this exemption shall not apply to any subsequent subdivision of any of the resulting parcels."

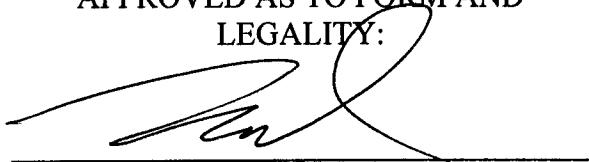
SECTION 2. Chapter 14.12, Maui County Code, is amended by adding a new section to be appropriately designated and to read as follows:

"14.12.070 Appeals. Notwithstanding any provision of this code to the contrary, the board of variances and appeals shall be the exclusive county agency to hear and determine appeals from any person aggrieved by any decision or order of the director pursuant to this chapter."

SECTION 3. 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 4. This ordinance shall take effect upon its approval; provided, that any pending appeal of a decision or order of the director that was filed with the board of water supply pursuant to chapter 14.11 of this code and has not had a hearing before the board of water supply shall be transferred to the board of variances and appeals.

APPROVED AS TO FORM AND
LEGALITY:



EDWARD S. KUSHI, JR.
Deputy Corporation Counsel
County of Maui

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