

COUNCIL OF THE COUNTY OF MAUI
WATER RESOURCES COMMITTEE

February 19, 2010

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 June 2, 2009, June 24, 2009, June 30, 2009, July 14, 2009, August 4, 2009, September 29, 2009, December 1, 2009, December 15, 2009, January 12, 2010, and February 2, 2010, makes reference to County Communication No. 05-46, from former Councilmember Michelle Anderson, relating to the rules and governing policies of the Department of Water Supply (Department).

Your Committee notes that in 2002, the Revised Charter of the County of Maui (1983), as amended (Charter), was further amended to transfer the authority to adopt rules and regulations having the force and effect of law, relating to the County's water systems, from the Board of Water Supply to the Director of Water Supply. Your Committee has been making recommendations on proposed bills relating to this matter as they are received from the Department of the Corporation Counsel, for consideration and possible action.

By correspondence dated May 27, 2009, the Department of the Corporation Counsel transmitted a draft bill entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.05, MAUI COUNTY CODE, RELATING TO PUBLIC SERVICES".

The purpose of the draft bill is to codify rules and regulations of the Department relating to subdivision water system requirements.

Pursuant to Section 8-11.3 of the Charter, your Committee requested the Board of Water Supply to review the draft bill. Your Committee also requested the Subdivision Engineering Standards Committee to review the draft bill, pursuant to Section 18.40.020(A), Maui County Code.

Your Committee notes that the draft bill provides that when required, subdividers will be assessed storage assessment fees, in an amount established in the County's annual budget. Your Committee informed the Director of Water Supply (Director) that the Fiscal Year 2009 Budget does not include any fees for storage assessment. The Director noted

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that the Department will be transmitting proposed legislation relating to water system development fees.

Your Committee considered various revisions to the draft bill recommended by the Department. Your Committee expressed concern that the County's cost to implement the Department's recommended water system improvements, relating to minimum size water main requirements, would be substantial. The Director noted that the Department currently tries to budget \$3,000,000 per year to fund the necessary upgrades. The Director also provided your Committee with maps delineating County water mains that still need to be upgraded to meet the new minimum size requirements. Your Committee voted to revise the draft bill to remove any minimum size requirement or reimbursement for water mains smaller than six inches in diameter.

Your Committee has received numerous testimony relating to the high cost of improvements required by the Department before a subdivider is permitted to install a water meter. After lengthy discussions with the Department, your Committee voted to revise the draft bill to allow family subdivisions to receive a reimbursement of 75 percent in two equal annual installments for costs associated with water main extensions.

Your Committee also voted to revise the draft bill to clarify administrative intent, correct the surety bond and cash deposit amounts required by the Department, change the effective date to July 1, 2010, (the start of the next fiscal year), and make nonsubstantive revisions.

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

Your Committee is in receipt of a proposed bill, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions.

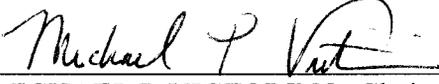
Your Water Resources Committee RECOMMENDS that Bill No. _____ (2010), attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.05, MAUI COUNTY CODE, RELATING TO PUBLIC SERVICES" be PASSED ON FIRST READING and be ORDERED TO PRINT.

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



MICHAEL P. VICTORINO, Chair

wr:cr:10001(5)aa:kcw

ORDINANCE NO. _____

BILL NO. _____ (2010)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.05,
MAUI COUNTY CODE, RELATING TO PUBLIC SERVICES

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

SECTION 1. Chapter 14.05, Maui County Code, is amended to read as follows:

"Chapter 14.05

SUBDIVISION WATER SYSTEM REQUIREMENTS

[(Reserved)]

Sections:

- 14.05.010 Extensions or connections.
- 14.05.020 Reservoirs/storage tanks.
- 14.05.030 Water mains and appurtenances.
- 14.05.040 Increase in size of water mains.
- 14.05.050 Reimbursement for water main extension.
- 14.05.060 Laterals.
- 14.05.070 Alterations to public system.
- 14.05.080 Dead ends.
- 14.05.090 Fire protection.
- 14.05.100 Subdivision elevation agreement.
- 14.05.110 Construction agreement and bond of water
system improvements.
- 14.05.120 Construction plans.
- 14.05.130 Materials and construction standards.
- 14.05.140 Installation of water service.
- 14.05.150 Inspection of work.
- 14.05.160 Repair and replacement of improvements.
- 14.05.170 Ownership of installed water system
improvements.
- 14.05.180 Deferral.
- 14.05.190 Violation-penalty.

14.05.010 Extensions or connections. Extensions or connections from a subdivision to the public water system shall be approved by the department upon determination of the point of adequacy; provided that the department has an adequate and sufficient water supply developed for fire protection, domestic and irrigation purposes to take on new or additional service without detriment to existing consumers and, further, that the subdivision water system conforms to and complies with the requirements of this chapter. At the subdivider's sole cost and expense, all subdivision water systems shall be designed, constructed, installed, and located in accordance with the requirements of this chapter.

14.05.020 Reservoirs/storage tanks. A. Subdividers shall install storage tanks, appurtenances, and pipelines from the tank site to the subdivision proper in accordance with the department's standards or as otherwise approved by the director. Storage tanks with a capacity of one hundred thousand gallons or more shall be of concrete construction. Storage tanks with a capacity of less than one hundred thousand gallons may be of steel, concrete, or other material as approved by the director.

1. For residential, hotel, apartment, business, industrial, airport, and commercial districts. Unless otherwise approved by the director, storage capacity required shall be determined on the basis of fire flow duration, maximum daily flow, or one thousand gallons per lot, whichever quantities or basis is greater.

2. For rural and agricultural districts. Storage capacity required shall be determined on the basis of one thousand gallons per lot for rural and two thousand gallons per lot for agricultural districts.

B. Tank site lots, access roads, and pipeline easements shall be offered to the County for dedication prior to the department's recommendation for final subdivision approval.

C. Whenever a subdivider is required by the department to install a reservoir or storage tank, together with appurtenances of greater capacity than is required to serve the subdivider's subdivision, the department shall make a lump sum reimbursement to the subdivider of the difference in cost, excluding the cost of appurtenances, of such larger reservoir or storage tank and the reservoir or storage tank that would otherwise have been required; provided, however, that no reimbursement shall be made where such larger reservoir or storage tank shall serve only areas of land under the same ownership as the subdivision in question.

D. Where it is determined by the director that a subdivision does not require new, separate storage facilities, and that existing storage facilities and capacity are available, the subdivider shall be assessed storage assessment fees in an amount as provided for in the rates and fees of the department as established in the County's annual budget.

E. Storage assessment funds may be used for any public reservoir or storage tank related construction or maintenance within the County.

14.05.030 Water mains and appurtenances. A. Water main sizes shall be designed to deliver water quantities and pressure that meet department and the department of fire and public safety standards, for both domestic and irrigation uses under peak consumption conditions, as well as for fire protection.

B. Size of Water Mains.

1. Urban and rural zoned districts. The standards of the "Insurance Service Office's Guide for Determination of Required Fire Flows" in effect at the time of a subdivision application shall be used as a guide in designing mains for fire flows. The minimum size main from the point of adequacy to, along, and within a subdivision shall be as follows:

	<u>Minimum Size of Water Main</u>
<u>2 unit subdivision</u>	<u>6" limited to 600' run</u> <u>8" if run is over 600'</u>
<u>3 to 12 unit subdivision</u>	<u>6" limited to 600' run</u> <u>8" if run is over 600'</u>
<u>13 to 24 unit subdivision</u>	<u>6" limited to 600' run</u> <u>8" if run is over 600'</u>
<u>25 and over unit subdivision</u>	<u>8" or larger as determined by design</u> <u>for domestic and fire protection</u> <u>requirements.</u>

All subdivisions shall provide six-inch water pipe or larger in residential district and eight-inch water pipe or larger in business, industrial, hotel, and apartment districts. A six-inch main shall be used only where it completes an adequate gridiron and in no case in blocks more than six hundred feet in length.

2. Agricultural zoned districts.

	<u>Minimum Size of Water Main</u>
<u>2 unit subdivision</u>	<u>6" limited to 1,200' run; over 1,200'</u> <u>size to be as determined by design for</u> <u>domestic and agricultural</u> <u>requirements.</u>
<u>3 to 6 unit subdivision</u>	<u>6" limited to 1,200' run;</u> <u>Over 1,200' size to be as determined</u> <u>by design for domestic and</u> <u>agricultural requirements.</u>
<u>7 to 24 unit subdivision</u>	<u>6" limited to 1,200' run;</u> <u>Over 1,200' size to be as determined</u> <u>by design for domestic and</u> <u>agricultural requirements.</u>
<u>25 and over unit subdivision</u>	<u>8" or larger as determined by design</u> <u>for domestic and agricultural</u> <u>requirements.</u>

C. Valves, pressure reducing units, etc., of such sizes, types and classes shall be installed as designated and required by the director.

14.05.040 Increase in size of water mains. A. Increase in size of water main extensions for service to other areas. Whenever the department finds it is necessary that the water mains proposed to deliver water to a subdivision should be of a greater capacity in order to supply water and fire protection to other property, the department will require the installation of larger size main.

B. Increase in size of water mains within subdivisions to benefit other areas. Whenever, in order to provide for existing or future services beyond the boundaries of a subdivision, the department finds that the mains to be installed within the subdivision should be of greater capacity than would otherwise be required, the department will require the installation of larger size mains.

C. Reimbursement for additional costs of mains. When a subdivider is required to install a larger size main for the reasons set forth in subsections A and B of this section, the department shall reimburse the subdivider, as soon as practicable, after acceptance by the department of the completed work, for the additional costs of the installation over and above the cost of the mains that would have been otherwise required; provided, however, in no case shall reimbursement be made for any portion

of the cost of a main less than six-inch size in agricultural, rural, and residential areas, or of any of the portion of the cost of a main less than eight-inch size in other areas; provided further, reimbursement shall not be made to a subdivider where such larger main or mains will service only areas under the same ownership as the subdivision under construction.

D. Departmental review of construction contract and agreement with subdivider. Any construction contract between a subdivider and private contractor where reimbursement to the subdivider for additional cost of a main is contemplated shall be subject to the prior review and approval of the department. Prior to the installation of the larger size main, the subdivider shall enter into an agreement with the department for reimbursement.

14.05.050 Reimbursement for water main extension. A. If the department's facilities in the area are inadequate, or where departmental facilities are not readily available to serve a proposed subdivision, the subdivider shall extend a water main from the nearest adequate departmental facility. The water main so constructed connecting the subdivision water system to the nearest point of adequacy of the public water system shall be deemed a main extension.

B. The subdivider shall be reimbursed for the cost of a main extension in accordance with this section. However, no reimbursement shall be made if the main extension will only serve areas under the same ownership as the subdivision under construction. In no case shall reimbursement for water main extension be made for any portion of the cost of a main less than six-inch size in agricultural, rural, and residential areas, or of any of the portion of the cost of a main less than eight-inch size in other areas.

C. The department shall reimburse the subdivider fifty percent of the cost of a water main extension. For subdivisions that result from an immediate transfer of property to a person or persons who are related to the subdivider by blood, adoption or marriage, specifically limited to a spouse, parents, children, grandparents, grandchildren, or siblings, the reimbursement shall be seventy-five percent. The reimbursement procedure shall be as follows:

1. Prior to installation of the main extension, the subdivider shall enter into an agreement with the department. If the subdivider has not substantially complied with the terms of the agreement within one year from date thereof, the agreement may, in the discretion of the director, be terminated.

2. After the work has been completed and before acceptance, the subdivider shall furnish the department an affidavit itemizing the costs incurred by the subdivider for the installation of the main extension.

3. Reimbursement shall be made in five equal annual installments, without interest. For subdivisions that result from an immediate transfer of property to a person or persons who are related to the subdivider by blood, adoption or marriage, specifically limited to a spouse, parents, children, grandparents, grandchildren, or siblings, the reimbursement shall be made in two equal annual installments, without interest. The initial payment will be made at the end of the fiscal year in which the construction project is completed and accepted by the department.

4. The department shall make the final determination as to the cost of the off-site water main or main extension installed by the subdivider, and reimbursement shall be based upon said estimates of the department, less any reimbursement made under section 14.05.040.

5. All reimbursements shall be payable to the original subdivider entering into the agreement with the department, unless otherwise directed by the original subdivider in writing.

D. Where large quantities of water are required or a large investment is necessary to provide service, the subdivider shall be informed as to the conditions under which reimbursement for off-site water mains may be approved.

E. Reimbursement shall not be made to subdividers for mains installed to a subdivision where such mains were not approved by the department prior to their installation.

F. Reimbursement shall not be made to a subdivider for main extensions installed to a subdivision in areas where an agreement for reimbursement for water main extension already exists.

14.05.060 Laterals. A. Where water main construction is necessary, the subdivider shall provide each lot in the subdivision with a service lateral from the water main to the lot boundary as specified in the publication kept on file with the department entitled "Water System Standards" issued by the department, 2002 edition, as may amended from time to time, and incorporated herein by reference. As an alternative, one service lateral meeting the minimum size requirement for two-lot subdivision, as provided in section 14.05.030, may be installed for each two lots.

B. Where the lots to be created front an existing water main, service laterals as required above shall be installed by the subdivider and supervised by the department, or as agreed upon with the department.

14.05.070 Alterations to public system. A. All work and materials in connection with a change in location or grade of any part of the existing public water system made necessary by the subdivision shall be at the expense of the subdivider.

B. When required by the department, contours or elevations shall be provided by the subdivider based on datum specified by the department.

14.05.080 Dead ends. Where water mains proposed by a subdivider would result in dead ends, the subdivider shall correct the condition by the installation of circuits or interconnections required by the department. Clean-outs, blow-offs, or air valve assemblies shall be installed as required by the department.

14.05.090 Fire protection. A. All subdivisions in any zoning district as described in title 19 of this code shall be required to install fire hydrants, which shall be paid for by the subdivider and shall be in accordance with the requirements of this chapter. In the event the proposed land use within the subdivision is inconsistent with the permitted use as described in the zoning district, the department shall have the discretion to adjust the requirements as set forth in this section.

B. The spacing of fire hydrants along the streets shall be not more than two hundred fifty feet apart in business, commercial, industrial, hotel and apartment districts, not more than three hundred fifty feet apart in residential districts, and not more than five hundred feet apart in rural and agricultural districts.

C. The department shall determine the location of all fire hydrants. Unless otherwise permitted by the department, all fire hydrants shall be located within the boundaries of a subdivision. On dead end streets, unless otherwise permitted by the director, the last fire hydrant shall be located no more than one-half the spacing distance from the dead-end. Spacing of fire hydrants shall be measured along the public roadway.

D. The department's standards for fire protection fire flow shall be the standards listed in that certain publication kept on file with the department entitled "Insurance Services Office's Guide for Determination of Required Fire Flows" issued by the Insurance Services Office, 1974 edition, as may be amended from time to time, and incorporated herein by reference. The minimum fire protection schedule shall be as follows:

FIRE PROTECTION SCHEDULE

MINIMUM FIRE FLOW REQUIREMENTS
BY ZONING DISTRICT

<u>ZONING DISTRICT</u>	<u>G.P.M.</u>	<u>HOURS</u>
<u>Agricultural</u>	<u>500</u>	<u>2</u>
<u>Rural</u>	<u>1,000</u>	<u>2</u>
<u>Residential</u>	<u>1,000</u>	<u>2</u>
<u>Duplex</u>	<u>1,250</u>	<u>2</u>
<u>A-1 Apartment</u>	<u>1,500</u>	<u>2</u>
<u>A-2 Apartment</u>	<u>2,000</u>	<u>2</u>
<u>Hotel</u>	<u>2,500</u>	<u>2</u>
<u>Business</u>	<u>2,000</u>	<u>2</u>
<u>Resort Commercial</u>	<u>2,000</u>	<u>2</u>
<u>Light Industrial</u>	<u>2,000</u>	<u>2</u>
<u>Heavy Industrial</u>	<u>2,500</u>	<u>2</u>
<u>Park</u>	<u>500</u>	<u>2</u>
<u>Airport</u>	<u>2,500</u>	<u>2</u>

E. Fire hydrants are not required for new subdivisions, which fall completely within a radius of two hundred fifty feet from the nearest existing fire hydrant in business, industrial, commercial, hotel, and apartment districts; three hundred fifty feet from the nearest existing fire hydrant in residential districts; and five hundred feet from the nearest existing fire hydrant in rural and agricultural districts. Where any portion of a new subdivision is outside of such a radius, compliance with subsections A through D of this section shall be required.

14.05.100 Subdivision elevation agreement. In the event any lot within a proposed subdivision is at such an elevation that the department cannot assure adequate water pressure to said lot, the department's recommendation for final subdivision approval shall be subject to the owner of such lot or lots executing an elevation agreement, whereby such lot owner agrees to accept such water service as the department is capable of providing based on such lot's elevation and, further, that such owner shall agree to construct and maintain, at the owner's expense, a tank, a pump with a tank, or other appurtenances as may be required by the department, which shall be of sufficient capacity and ability to furnish an adequate supply of water in the event the pressure in the department's water mains is inadequate. The agreement shall further provide that the improvements associated with the elevation agreement shall be completed and installed prior to the issuance of any certificate of occupancy by the department of public works.

Any subdivision for which an elevation agreement has been executed may be permitted to connect to the department's water system, while at the same time maintaining its separate, private subdivision water system pursuant to the requirements, conditions, and specifications of the department and this chapter.

All elevation agreements shall be recorded with the bureau of conveyances or the land court of the State, shall constitute an encumbrance on the real property to be subdivided, and unless released or cancelled by the department, shall bind the owner of the subdivided real property and the owner's successors and permitted assigns.

14.05.110 Construction agreement and bond of water system improvements. A. A subdivider may secure the department's recommendation for final subdivision approval prior to the completion of construction of the required water system improvements by entering into an agreement with the department to make, install and complete all of the required water system improvements within a specified time, and filing with the department a surety bond or other security, as specified in this section, to assure the department that the actual construction and installation of the improvements and utilities shown on the approved construction plans will be completed.

B. The agreement shall require that the subdivider will complete the water system improvements to the satisfaction of the department, and shall further provide that if the subdivider shall fail to so complete such improvements within the time specified, or such extension as may be mutually agreed upon, the department may complete the same and recover the full cost and expense thereof from the subdivider.

C. The bond or other security to be filed with the department shall be one of the following, provided that in all instances where a surety bond is filed, it shall be executed by the subdivider, as principal, and by a surety company authorized to do business in the State of as a surety:

1. A surety bond in a sum equal to one hundred percent of the cost of the work required to be done as estimated by the department; payable to the department; conditioned upon the full and complete performance of all work required to be done by the subdivider; provided that should the subdivider fail to complete all work required to be done within a specified time, the department may cause all work to be completed; and that the parties executing the bond shall be firmly bound for the payment of all costs thereof;
or

2. Where the subdivider has entered into a contract with a licensed contractor, the subdivider shall file all of the following with the department:

a. A certified copy of the subdivider's contract and specifications;

b. A certified copy of a one hundred percent performance bond of the subdivider's contractor; and

c. A separate surety bond in a sum equal to at least fifty percent of the cost of all work required to be done by the subdivider as estimated by the department, and payable and conditioned as above set forth; or

3. The subdivider shall make a cash deposit with the department, or to a licensed escrow company designated by the director as agent of the department, in an amount equal to one hundred percent of the cost of the construction of improvements as estimated by the department. Subject to the review and approval of the director and the department of corporation counsel, an agreement may be entered to provide for approved progress payments to be made to the subdivider's contractor for materials used and services and labor performed out of deposit as the work progresses, provided that such progress payments shall at no time exceed the value of the completed portion of the improvements; or

4. In lieu of a surety bond or cash deposit, a subdivider may deposit with the department other negotiable instruments or securities acceptable to the director, and reviewed and approved by the department of the corporation counsel.

14.05.120 Construction plans. A. All construction plans depicting water system improvements shall be prepared by a licensed engineer registered in accordance with the laws of the State. Preliminary and final subdivisions maps to be reviewed by the department shall fully conform to the requirements of this section.

B. All construction plans for water system improvements shall show the following on standard twenty-two inches by thirty-six and one-half inches with a one-fourth inch border size sheet or sheets:

1. Name of subdivision, name of subdivider, name of engineer and location of subdivision;

2. Date, north arrow, scale, tax key map number;

3. The proposed subdivision water system improvements, complete in both plan and profile, and its interrelationship with street lines, lot lines, curb grades, electrical and telephone conduits, sewers and drains, both existing and proposed, as well as any other features, natural or artificial, necessary for a complete understanding of the water system design;

4. Plan views drawn to a scale of one inch equals forty feet or one inch equals twenty feet. Profile views drawn to a vertical scale of one inch equals four feet or larger. Manhole, fire hydrant, lateral and other details drawn to a scale of one-half inch equals one foot or larger;

5. The designation, including alignment and width, of all easements for any portion of the water system improvement which will not be in street areas to be dedicated to the department;

6. A general layout map showing the locations of lots and streets within the subdivision and its near vicinity together with existing and proposed water system improvements;

7. A small key location inset or vicinity map showing the proposed subdivision in relationship to streets and water mains in the area; and

8. In cases where the owner or subdivider also owns areas contiguous to the proposed subdivision, or separation therefrom by a street, a sketch of the future street and lot pattern and the water system proposed to serve such contiguous areas shall be furnished for study with the construction plans.

C. No construction of subdivision water system improvements or any portion thereof which are to be connected to the department's water system shall be commenced prior to the written approval of the final construction plans and specifications by the director or the director's duly authorized representative. After the approval, the subdivider shall transmit four sets of all final construction plans and specifications to the department.

D. If any period exceeding one year after plan approval or such time extensions as may be granted by the department expires without substantial progress by the subdivider in the construction of the subdivision water system improvements, the plans and specifications thereof shall be deemed void and invalid, and, at the subdivider's option may be resubmitted to the department for review, for making such changes or revisions as the department deems proper due to changed conditions or revision of standards, and re-approval.

14.05.130 Materials and construction standards. A. All pipes, fittings and valves shall be of a manufacture and grade acceptable to the department and shall meet the American Water Works Association specifications. All pipes sized two and one-half inches or less shall be copper tubing, type K, soldered joints as approved by the department, and all fittings for same shall be copper fittings as approved by the

department. Pipes shall be ductile iron, Class 52, with a maximum of one-eighth inch cement mortar lining.

B. All cast iron fittings shall be Class "D" or equivalent, cement mortar lined.

C. Pipes, fittings, valves and other appurtenances required in the installation of mains within a subdivision shall be new.

D. The design, construction procedures and workmanship with respect to any subdivision water system improvements, or any portion thereof, that are to be connected to the department's water system shall be in accordance with the requirements of the department of health, and any other applicable codes, ordinances or laws.

14.05.140 Installation of water service. Subject to the prior approval by other county agencies, as applicable, no water service shall be approved or provided by the department, except temporary service for subdivision construction purposes, until the subdivision water system improvements have been completed as required pursuant to this chapter, and have been accepted by the department.

14.05.150 Inspection of work. A. The director or the director's duly authorized representatives shall have free access at all times to all installations made for the subdivision and shall be given any assistance or information required to thoroughly inspect the work to be done and the materials used or to be used. All inspections shall be done during the normal work week and no inspections shall be performed on Saturdays, Sundays and holidays, except during an emergency or under such conditions as may be approved by the director, in such case said inspections shall be paid for by the subdivider.

B. The subdivider shall request inspections of subdivision improvements at least three days in advance.

14.05.160 Repair and replacement of improvements. Prior to acceptance by the department, the subdivider shall enter into an agreement with the department and shall file with the department a surety bond or other approved security to insure the repair and replacement of subdivision water system improvements in accordance with standards acceptable to the department for a period of one year from the date of dedication to and acceptance by the department. The amount of the surety bond or other approved security shall be at least ten percent of the cost of the improvements as estimated by the department.

14.05.170 Ownership of installed water system improvements. Prior to connecting the subdivision water system improvements to the public water system, and unless otherwise provided in this chapter, the subdivider shall convey the subdivision water system improvements to the department by letter, and shall submit together therewith an affidavit showing the breakdown as to the cost of such installation. Upon acceptance, the subdivision water system improvements shall thereafter be maintained and operated as a part of the department's water system, provided, however, that the department may refuse to operate and maintain facilities installed without the department's prior approval and acceptance. Prior to the commencement of water service to a subdivision and as a condition thereof, the subdivider shall deliver to the department perpetual easements for all portions of the subdivision water system installed in other than publicly owned real property. The subdivider shall also convey to the department fee simple title to all real property on which storage tanks, reservoirs, wells, and pumps are located or situated, have been

constructed by the subdivider, and are connected to the public water system, together with any easements required for ingress and egress.

14.05.180 Deferral. A. Purpose. The purpose of this section is to authorize owners of real property to transfer interest in their property to family members without immediate compliance with the requirements pertaining to subdivisions.

B. Authorizing deferral of subdivision requirements. The director shall approve a request for subdivision approval recommendation and temporarily defer subdivision water system requirements under this chapter for the sole and limited purpose of authorizing a transfer of real property interest from the subdivider to family members pursuant to the following conditions:

1. The transfer shall be immediate and shall be limited to the following persons who are related to the subdivider by blood, adoption or marriage: spouse, parents, children, grandparents, grandchildren, or siblings.

2. The purpose of the transfer shall not be to provide housing or other uses which would necessitate additional water service.

3. The department shall not approve any application for a building permit or additional water service unless the requirements for the subdivision water system are complied with. The standards and requirements for the subdivision water system shall be the standards and requirements of the department in effect at the time of the department's approval of said application for building permit or additional water service. The subdivision water system shall include all deferred improvements and is not limited to improvements needed for an individual subdivided parcel created pursuant to the deferral granted by this section.

4. The director shall not approve a deferral of subdivision water system requirements under this section if the director finds that the water service necessitated by the subdivision request cannot be met by the existing public water system and, therefore, would require a private water system.

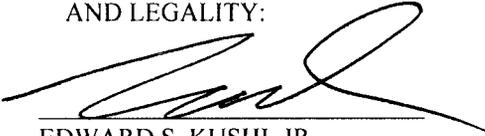
C. Agreement. The provisions of this section shall be implemented through an agreement between the department, the subdividers, and the transferees, and the conditions imposed by this section shall run with the land and shall bind and constitute notice to all subsequent grantees, assignees, mortgagees, lienors, and other persons claiming an interest in the subject real property. The agreement shall be recorded with the bureau of conveyances or the land court of the State.

14.05.190 Violation-penalty. Violations of this chapter shall be subject to section 19.530.030 of this code."

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 on July 1, 2010.

APPROVED AS TO FORM
AND LEGALITY:

A handwritten signature in black ink, appearing to read "Edward S. Kushi, Jr.", written over a horizontal line.

EDWARD S. KUSHI, JR.

Deputy Corporation Counsel

County of Maui

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