

COUNCIL OF THE COUNTY OF MAUI
WATER RESOURCES COMMITTEE

August 5, 2011

**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 March 15, 2011, and July 12, 2011, makes reference to County Communication No. 11-44, from Councilmember Michael P. Victorino, relating to the establishment of a Water System Development Fund.

By correspondence dated March 14, 2011, the Department of the Corporation Counsel transmitted a draft bill entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 14, MAUI COUNTY CODE, RELATING TO WATER SYSTEM DEVELOPMENT FEES". The purpose of the draft bill is to authorize the Department of Water Supply (Department) to collect fees in order to offset costs associated with necessary water system improvements and establish appropriate accounting mechanisms.

Your Committee notes that in 2002, the Revised Charter of the County of Maui (1983), as amended, was further amended to transfer the policy-making authority relating to the County's water systems from the Board of Water Supply (Board) to the Council. Since that time, the Council has been reviewing, amending, and codifying the rules and regulations previously approved by the Board. The draft bill proposes that a new Chapter 14.07 be added to the Maui County Code ("MCC") authorizing the Department to collect fees for water system improvements.

Your Committee further notes that the Department recommended deletion of the draft bill's proposed section relating to payment plans. The Department advised that the current option to pay certain outstanding fees in installments has not been utilized by the public. Your Committee revised the draft bill by deleting proposed Section 14.07.100, MCC, "Payment plan", in its entirety.

Your Committee further revised the draft bill by deleting the second sentence, relating to a return of deposit, in proposed Section 14.07.080(C), MCC, and the words "due to delinquency" in proposed Section 14.07.080(D), MCC. Both changes were recommended by the Department to eliminate unnecessary language that does not add to the purpose of the draft bill.

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Your Committee voted 7-0 to recommend passage of the revised draft bill on first reading and filing of the communication. Committee Chair Victorino, Vice-Chair Pontanilla, and members Baisa, Carroll, Cochran, Hokama and White voted "aye".

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 the following:

1. That Bill No. _____ (2011), attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 14, MAUI COUNTY CODE, RELATING TO WATER SYSTEM DEVELOPMENT FEES be PASSED ON FIRST READING and be ORDERED TO PRINT; and
2. That County Communication No. 11-44 be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



MICHAEL P. VICTORINO, Chair

ORDINANCE NO. _____

BILL NO. _____ (2011)

A BILL FOR AN ORDINANCE AMENDING TITLE 14, MAUI COUNTY CODE,
RELATING TO WATER SYSTEM DEVELOPMENT FEES

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

SECTION 1. Chapter 14.07, Maui County Code, is hereby amended
to read as follows:

"CHAPTER 14.07

WATER SYSTEM DEVELOPMENT [FUND] FEES

[(Reserved)]

Sections:

<u>14.07.010</u>	<u>Purpose.</u>
<u>14.07.020</u>	<u>Definitions.</u>
<u>14.07.030</u>	<u>Water system development fee schedule.</u>
<u>14.07.040</u>	<u>Applicability.</u>
<u>14.07.050</u>	<u>Water service.</u>
<u>14.07.060</u>	<u>Building permits.</u>
<u>14.07.070</u>	<u>Request for additional meter(s).</u>
<u>14.07.080</u>	<u>Exemptions.</u>
<u>14.07.090</u>	<u>Payment of water system development fee.</u>
<u>14.07.100</u>	<u>Application of credit.</u>

14.07.010 Purpose. The purpose of this chapter is to authorize the department to collect fees for the department's costs for water system improvements (or dedicated water system improvements) which are necessary to increase the service capacity or to replace existing service capacity in the department's water systems to serve new water consumers or additional demand by existing consumers, and to establish the appropriate accounting mechanisms to carry out this purpose.

14.07.020 Definitions. For the purpose of this chapter, unless it is plainly evident from the context that a different meaning is intended, certain words and phrases are defined as follows:

"Accessory dwelling" means living quarters attached to a main dwelling or within an accessory building located on the same lot as the main dwelling for use as a separate dwelling.

"Additional water service" means a provision for additional water service through the installation of an additional water meter or a consolidated metering system, or the replacement of an existing water meter with a larger-capacity water meter.

"Allocation" means quantity and size of meter(s) identified for the purpose of reserving water service and quantity of water to meet the anticipated demand of that service.

"County" means the County of Maui, a political subdivision of the State of Hawaii.

"Credit" means the amount of money that an applicant or the applicant's predecessor in interest has paid or spent for construction, or the amount of water in gallons an applicant or the applicant's predecessor in interest has developed by prior agreement with the board or the department and dedicated to the board or the department for source development, transmission pipelines, storage tanks, or a combination of any of the foregoing, which is used to offset the fee.

"Distribution system" means the water pipelines used to supply water from the transmission system or storage tank to an individual water service lateral and public fire hydrants. Transmission systems that currently provide this function shall not be construed to be a distribution system.

14.07.030 Water system development fee schedule. Fees shall be charged in the amounts as set forth in the annual budget, for the water system development fee.

14.07.040 Applicability. This chapter shall apply to all persons who apply for water service or additional water service and who are granted approval of a building permit by the County for the construction of any structure on any premises, subject to the exemptions listed in section 14.07.080.

14.07.050 Water service. A. Unless exempted pursuant to section 14.07.080, the WSDF shall be imposed on any applicant granted water service, as set forth in the annual budget, based on the number and size of water meters required.

B. Unless exempted pursuant to section 14.07.080, the WSDF shall be imposed on any applicant granted additional water service in an amount equal to the difference in WSDF of the requested meter size and the existing water meter size as set forth in the annual budget.

C. An applicant requesting a reduction of a water meter size shall not be entitled to any reimbursement of the WSDF.

D. Reimbursement of WSDF shall not be made with the termination of water service. However, the WSDF paid shall be credited to future applications for service at those premises.

E. When premises with existing water service are subdivided, the owner may request relocation of the existing meter or a reduced-size meter upon payment of relocation costs. All new premises resulting from the subdivision of the original premises shall be required to have separate water service.

14.07.060 Building permits. Any applicant for a building permit approved by the County shall be required to apply for separate water service or additional water service based on the director's estimate as to the size of service required for the structure unless exempted pursuant to section 14.07.080.

14.07.070 Request for additional meter(s). Additional meter(s) for existing accessory dwellings may be requested at premises presently provided water service and, if granted, shall be subject to one half of the WSDF set forth in the annual budget.

14.07.080 Exemptions. A. Any applicant for a building permit for an accessory dwelling shall pay one half of the WSDF for the size meter required to be installed.

If the accessory dwelling is later subdivided from the premises, the applicant for subdivision shall pay the balance of the WSDF in effect at the time of subdivision upon proof of the initial one-half payment and, upon the director's request, shall be required to relocate the meter.

B. Any applicant for a building permit for any structure shall be exempted from paying the WSDF, upon proof presented, that the structure or the premises on which the structure is located does not require water service or additional water service from the department's system, or that the applicant or the applicant's predecessor in interest had already paid the required WSDF.

C. Any temporary meter shall be exempt from the WSDF.

D. Any application for water service within thirty six months after removal pursuant to the procedures set forth in this title shall be exempt from the WSDF.

14.07.090 Payment of water system development fee.

A. Applicant ready for water service. The director shall approve applications only upon payment of the WSDF or application of credit for water service or additional water service, provided water source capacity is available at that time. Total payment for water service shall be the WSDF in effect at the time the meter is installed.

B. Applicant not ready for water service. Upon payment of a deposit equal to the WSDF set forth in the annual budget by an applicant who, to the director's satisfaction, is unable to accept water service immediately, the department may reserve an allocation of water service source capacity available at that time. Total payment for water service will be the WSDF in effect at the time the meter is installed. The duration of any such reservation shall not exceed two years plus two six-month extensions, each for good cause shown and approved by the director, provided water service source capacity is available. The department and the applicant shall agree in writing on the amount of any reserved allocation.

If within two years, or longer with extension(s), the applicant is not able to accept installation of water service, the application and the reservation of the allocation shall expire, the deposit paid by the applicant shall be forfeited, and said deposit shall be applied to the WSDF fund with no credit of any kind toward any future application.

14.07.100 Application of credit. A. Credits shall be attributable to:

1. Source developments;
2. The construction of transmission pipelines; or
3. The construction of storage tanks. The schedule of WSDF credits shall be set forth in the annual budget.

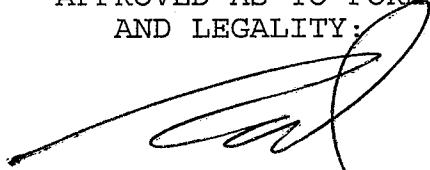
B. Any applicant who is a successor in interest to a premises shall be required to submit evidence supporting any credit claimed.

C. Credit shall be applicable only to premises which are served by the source, transmission pipeline, or storage tank which the applicant or the applicant's predecessor in interest has developed or constructed, or has participated in developing or constructing unless otherwise specifically provided for in a prior agreement.

D. Any credit in a source, which by prior agreement is measured in gallons, which the applicant or the applicant's predecessor in interest has developed or has participated in developing shall be determined in an amount according to that prior agreement."

SECTION 2. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:



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

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