

May 23, 2013

MEMO TO: Members of the Water Resources Committee

F R O M: Michael P. Victorino, Chair *MPV*  
Water Resources Committee

SUBJECT: **TRANSMITTAL OF LEGISLATIVE PROPOSAL RELATING TO  
WATER USAGE DURING WATER SHORTAGE DECLARATION (WR-18)**

The attached legislative proposal pertains to Item 18 on the committee's agenda.

wr:ltr:018amc03:kcw

Attachment

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

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

A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.06,  
MAUI COUNTY CODE, RELATING TO WATER SHORTAGES

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

SECTION 1. Chapter 14.06, Maui County Code, is amended to read as follows:

**"Chapter 14.06**

**CONTROL OF WATER USAGE DURING [DROUGHTS] WATER SHORTAGE**

Sections:

- 14.06.010 Declaration of [drought.] water shortage.
- 14.06.020 Control of water usage.
- 14.06.030 [Violation-Penalty.] Notice and publication of declaration of water shortage.
- 14.06.040 Exemptions.
- [14.06.040] 14.06.050 Violation-penalty.
- 14.06.060 Review.

**14.06.010 Declaration of [drought.] water shortage.** A. Whenever the water supply becomes inadequate in any area in the County or County water system because of a period of drought, natural disaster, or other events causing water shortage, the director, [after consultation with the board and] with approval by the mayor, may issue a [proclamation declaring a drought] declaration of water shortage [to exist in such area] for the affected area or County water system.

B. [The declaration of drought shall be published in a newspaper of general circulation in the County at least once a month during the period of drought.] There shall be two stages of water shortage as follows:

1. A stage 1 water shortage shall exist if the director determines that anticipated water demand for an area or County water system is projected to exceed available water supply by up to twenty percent. Only those consumers affected by a stage 1 water shortage may be subject to some or all of the provisions set forth in section 14.06.020 of this chapter.

2. A stage 2 water shortage shall exist, and shall be declared an emergency, if the director determines that anticipated water demand for an area or County water system is projected to exceed available water supply by more than twenty percent. Only those consumers affected by a stage 2 water shortage shall be subject to some or all of the provisions set forth in section 14.06.020 of this chapter.

C. Within forty-five days after the declaration of a water shortage, the director shall transmit a report of findings to the council, which shall include the nature of the water shortage, the restrictions imposed pursuant to section 14.06.020 of this chapter, the duration or projected duration of the water shortage, any consumer violations, and the types of repair, including associated costs, if the water shortage was caused by something other than a drought.

**14.06.020 Control of water usage.** A. After a [drought] water shortage has been declared pursuant to this chapter, the director [may] is authorized to restrict the use of water in the affected area from a County water system or systems by [such] appropriate schedules, voluntary restrictions, mandatory restrictions, the application of water shortage rates as set forth in the annual budget, and other measures as the director may deem [proper] appropriate.

B. The schedules, restrictions, and measures may restrict the use of water during certain hours or days of the week and within certain amounts.

C. The director may:

1. [prohibit] Prohibit the use of water for irrigation, lawns, construction, subdivision, or other types of [activity and] activities; and

2. Suspend the installation of any new meter or new water service.

[D. Regular United States mail or a notice in a newspaper of general circulation may be used to inform users of the schedules and measures established by the director.]

**14.06.030 [Violation-Penalty.]** A. Subject to the opportunity to appeal to the board pursuant to Chapter 14.11 of this code, the director may remove the water meter of users who violate any of the schedules or measures established pursuant to this chapter, and shall assess the user the sum of \$100.00 for reinstallation of a removed meter.

B. Any person violating the schedules or measures established by the director pursuant to this chapter shall be charged with a violation and, upon conviction thereof, shall be subject to a fine of not more than \$500.00 for each violation.] **Notice and publication of declaration of water shortage.** A notice of declaration of water shortage shall be published in a newspaper of general circulation in the County weekly during the period of any declaration of water shortage. The first notice shall be published at least seven calendar days prior to the beginning date of any water shortage period. Each notice shall state the specific duration period of any water shortage period; any schedules, restrictions, or other measures established by the director to control water usage during the water shortage period; and the application of water shortage rates for the duration of the water shortage period. To the extent possible, the department shall also notify consumers in the affected water system area of the water shortage declaration by regular United States mail, provided, however, that non-receipt of such mailed notice by any affected water consumer shall not affect nor invalidate the declaration of water shortage.

**14.06.040 Exemptions.** A. In the event of a water shortage declaration, agricultural consumers will be requested to reduce water consumption to the extent practicable, but are exempt from any water shortage rate increases for the first 60 days after a water shortage has been declared.

B. An area affected by a water shortage due to infrastructure malfunction, mechanical malfunction, or human error shall be exempt from water rate increases.

**[14.06.040] 14.06.050 Violation-penalty.** A. Any consumer violating the schedules, restrictions, or measures established by the director pursuant to this chapter may be charged with a violation and, upon conviction thereof, shall be subject to a fine of not more than \$500.00 for each violation.

B. The water meter of any consumer who has been convicted in accordance with section A above, and has subsequently been charged with another violation of any schedule, restriction, or measure established by the director pursuant to this chapter, may be removed by the director, subject to the opportunity to appeal such water meter removal to the board pursuant to chapter 14.11 of this code.

C. Any water meter removed pursuant to this chapter and thereafter reinstalled shall be subject to a \$100.00 reinstallation fee.

**14.06.060 Review.** A. The council shall review this chapter beginning July 1, 2014, and every three years thereafter.

B. As part of the review, the director shall provide a report to the council on the status of this chapter and shall include a list of water shortage declarations explaining the following:

1. What areas were affected by each water shortage declaration;
2. The duration of each water shortage declaration; and
3. The restrictions imposed.

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

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