

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

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

A BILL FOR AN ORDINANCE AMENDING SECTION 14.01.050 RELATING TO DROUGHTS, REPEALING CHAPTER 14.03, MAUI COUNTY CODE RELATING TO WATER CONSERVATION, AND AMENDING CHAPTER 14.06, MAUI COUNTY CODE, RELATING TO WATER SHORTAGES

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

SECTION 1. Section 14.01.050, Maui County Code is amended to read as follows:

“**14.01.050 Hamakuapoko Wells.** A. Water from Hamakuapoko Wells 1 and 2 shall only be [provided] used for the following:

1. Agricultural purposes;
2. Consumers of the department’s upcountry water system as defined in section 14.13.030 of this [code] title when a [drought] water shortage is declared pursuant to [section] chapter 14.06[.010] of this [code] title; and
3. Backup to the department’s existing upcountry water system [facilities].

B. Water quality sampling schedules shall comply with department of health regulations and with standards set by the United States Environmental Protection Agency.”

SECTION 2. Chapter 14.03, Maui County Code, is repealed.

SECTION 3. Chapter 14.06, Maui County Code, is amended to read as follows:

“**Chapter 14.06**

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

Sections:

**14.06.010** [Declaration of drought] **Policy statement.**

**14.06.020** [Control of water usage] **High efficiency toilets, plumbing fixtures, and irrigation equipment.**

**14.06.030** [Violation-penalty.] **Leak detection.**

**14.06.040** **Education and incentives.**

**14.06.050** Declaration of [drought] **water shortage.**

**14.06.060 Stages of water shortage.**

**14.06.070 Notice and publication of declaration of water shortage.**

**14.06.080 Agricultural consumers.**

**14.06.090 Exemptions.**

**14.06.100 Violation-penalty.**

**14.06.110 Review.**

**14.06.010 Policy statement.** A. Pursuant to Article XI, Section 7 of the Hawaii State Constitution, the County finds that water is a public trust.

B. The County's policy is to promote water conservation and prepare for and prevent water shortages.

C. Water conservation is essential to preserve water resources and to reduce the risk and severity of water shortages.

D. Unrestricted water use for nonessential needs during times of water shortage may endanger the adequacy of the County's water supply for essential needs.

**14.06.020 High efficiency toilets, plumbing fixtures, and irrigation equipment.** A. No later than January 1, 2018, the County shall retrofit all County facilities and grounds with high efficiency toilets, plumbing fixtures, and irrigation equipment using the most up-to-date water conservation design principles.

B. If applicable, all new building construction shall be required to install high efficiency toilets, plumbing fixtures, and irrigation equipment using the most up-to-date water conservation design principles.

**14.06.030 Leak Detection.** A. The department shall monitor consumers' consumption and issue high-consumption notices to consumers when warranted.

B. The department shall prioritize the replacement of old and leak-prone water mains.

C. Upon request by a consumer, the department shall distribute tablets to detect toilet-tank leaks.

D. The department shall encourage members of the public to report water leaks.

**14.06.040 Education and incentives.** A. The department shall promote water conservation education.

B. The department shall make high efficiency faucet and shower fixtures and outdoor hose nozzles available to the public at no charge.

C. The department, in consultation with the board, shall implement an incentive program to encourage consumers to replace old toilets and water fixtures with toilets and fixtures using high efficiency water conservation design principles.

[14.06.010] **14.06.050 Declaration of [drought. A.] water shortage.** Whenever the water supply becomes inadequate in any area in the County or County water system because of a period of drought, an infrastructure or

mechanical malfunction, natural disaster, or other event causing a water shortage other than human error, 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 the drought.]

**[14.06.020 Control of water usage.] 14.06.060 Stages of water shortage.**

A. [After a drought has been declared pursuant to this chapter, the director, may restrict the use of water by such appropriate schedules and measures as the director may deem proper.

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

C. The director may prohibit the use of water for irrigation, lawns, construction, subdivision, or other types of activity and 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 and 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 for each violation.] There shall be three stages of a declaration of water shortage as follows:

1. Water shortage advisory. During a water shortage advisory, water consumers in the area or of the County water system affected by the water shortage shall be requested by the mayor or the mayor's representative to voluntarily restrict water usage by five per cent.

2. Water shortage warning. During a water shortage warning, water consumers in the area or of the County water system affected by the water shortage shall be mandated to restrict water usage by five per cent and shall be requested by the mayor or mayor's representative to restrict water usage by ten percent.

3. Water shortage emergency. During a water shortage emergency, water consumers in the area or County water system affected by the water shortage shall be mandated to restrict water usage by ten per cent. The director may apply other schedules, restrictions, or measures as follows:

- a. Prohibit water usage during certain hours or days of the week;
- b. Prohibit the use of water for irrigation, lawns, construction, subdivision, washing of vehicles, or other types of activities;
- c. Prohibit the installation of any new water meter or water service; and
- d. Institute water shortage water rates as set forth in the annual budget.

C. Failure of a consumer to comply with any mandated water restrictions may result in penalties established in section 14.06.060 of this chapter.

**14.06.070 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. Except for a declaration of a water shortage emergency, the first notice shall be published at least seven calendar days prior to the beginning date of any water shortage. Each notice shall state the specific duration 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; that non-receipt of such mailed notice by any affected water consumer shall not affect nor invalidate the declaration of water shortage.

**14.06.080 Agricultural consumers.** A. In the event of a water shortage declaration, agricultural water consumers shall be requested to reduce water consumption to the extent practicable, but shall not be required to implement any restrictions or mandates imposed by section 14.06.030 of this chapter for the first ninety days after publication in a newspaper of general circulation in the County.

B. After the ninety days provided in subsection (A), agricultural consumers shall be subject to the same provisions as other consumers.

**14.06.090 Exemptions.** Any area affected by a water shortage due to infrastructure or mechanical malfunction caused by human error by a County employee shall be exempt from any water rate increases.

**14.06.100 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 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 title.

C. Any water meter removed pursuant to this chapter and thereafter reinstalled shall be subject to a \$100 reinstallation fee.

**14.06.110 Review.** A. The council shall review this chapter beginning January 1, 2015, 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. The areas affected by each water shortage declaration;
2. The duration of each water shortage declaration; and
3. The restrictions imposed.”

SECTION 4. 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.

SECTION5. 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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