

ORDINANCE NO. _____

BILL NO. _____ (2014)

A BILL FOR AN ORDINANCE RELATING TO WATER CONSERVATION
AND CONTROL OF WATER USAGE DURING WATER SHORTAGE

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 14.06.010] chapter 14.06A 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 14.01.060, Maui County Code, is amended to read as follows:

14.01.060 [Reserved.] Water source development agreements with private entities. The council shall approve by resolution any water source development agreement with private entities. For purposes of this section, a "water source development agreement with a private entity" means an agreement, executed by the County and any person, to develop water resources by constructing a structure to capture, convey, store, and treat currently unutilized, nonpotable surface waters; constructing facilities for currently unutilized ground water and its treatment, including pumps, motor control stations, pump control, or disinfection contact time tanks; constructing desalination facilities; or using any other technique that provides or recaptures water that is acceptable to the State of Hawaii department of health, together with any easements required for the improvements. This section shall not apply to County contracts that are subject to the Hawaii public procurement code, as set forth in chapter 103D, Hawaii Revised Statutes.

SECTION 3. Chapter 14.03, Maui County Code, is repealed.

SECTION 4. Chapter 14.06, Maui County Code, is repealed.

SECTION 5. Title 14, Article 1, Maui County Code, is amended by adding a new chapter 14.06A to read as follows:

“Chapter 14.06A

WATER CONSERVATION AND CONTROL OF WATER USAGE DURING
WATER SHORTAGE

Sections:

- 14.06A.010 Policy statement.**
- 14.06A.020 Definitions.**
- 14.06A.030 Water-efficient toilets, plumbing fixtures, and irrigation equipment.**
- 14.06A.040 Leak detection.**
- 14.06A.050 Education and incentives.**
- 14.06A.060 Declaration of water shortage.**
- 14.06A.070 Stages of water shortage.**
- 14.06A.080 Notice and publication of declaration of water shortage.**
- 14.06A.090 Agricultural consumers.**
- 14.06A.100 Exemptions.**
- 14.06A.110 Violation-penalty.**
- 14.06A.120 Review.**

14.06A.010 Policy statement. A. Pursuant to Article XI, Section 1 of the Hawaii State Constitution, the County finds that water is a public trust resource.

B. The County’s policy is to promote water conservation and take preventative measures to reduce the risk and severity of water shortages.

C. Water conservation is essential to preserve water resources, and to protect public health, safety, and welfare.

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.

14.06A.020 Definitions. When used in this chapter, unless the context clearly indicates a different meaning, “Water-efficient” means practices using improved technologies and methods to obtain desired results utilizing the least amounts of water.

14.06A.030 Water-efficient toilets, plumbing fixtures, and irrigation equipment. No later than January 1, 2018, the County shall retrofit all County facilities and grounds with water-efficient toilets, plumbing fixtures, and irrigation equipment consistent with water conservation design principles available at the time of the retrofit.

14.06A.040 Leak detection. A. The department shall monitor water 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. When available, the department shall reasonably distribute leak detection tablets or other leak detection methods to detect toilet tank leaks to a consumer upon request.

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

14.06A.050 Education and incentives. A. The department shall promote water conservation education.

B. When available, the department shall reasonably provide water-efficient faucet and shower fixtures, and outdoor hose nozzles, to consumers upon request 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 those that have increased levels of water efficiency and are consistent with water conservation design principles.

14.06A.060 Declaration of water shortage. A. The director, with approval of the mayor, may declare 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.

B. Prior to declaring a water shortage, the director shall consider the following:

1. Current and predicted weather patterns;
2. Reservoir water levels;
3. Surface water flow; and
4. Current and predicted water usage.

14.06A.070 Stages of water shortage. A. In declaring a water shortage, the director shall designate the appropriate stage of the water shortage, as follows:

1. Stage 1. A stage 1 water shortage shall exist if the director determines that anticipated water demand in an area is projected to exceed available water supply by one to fifteen per cent.

2. Stage 2. A stage 2 water shortage shall exist if the director determines that anticipated water demand in an area is projected to exceed available water supply by sixteen to thirty per cent.

3. Stage 3. A stage 3 water shortage shall exist if the director determines that anticipated water demand in an area is projected to exceed available water supply by thirty-one per cent or more. If a stage 3 water shortage is declared, the director may also 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, washing of vehicles, or other nonessential activities;
- c. Prohibit the use of temporary construction meters and
- d. Institute water shortage water rates as set forth in the annual budget.

B. Failure of a consumer to comply with any mandated water restriction may result in penalties established in section 14.06A.110.

14.06A.080 Notice and publication of declaration of water shortage.

A. A notice of declaration of water shortage shall be published in a newspaper of general circulation in the County once each week for as long as water shortage exists. Except during a stage 3 water shortage, the first notice of a water shortage shall be published at least seven calendar days prior to the beginning date of any water shortage.

B. Each water shortage notice shall state the duration of restrictions, the application of water shortage rates, and any other measures established by the director to control water usage.

C. A notice shall be published in a newspaper of general circulation in the County when a water shortage declaration stage changes or when the water shortage declaration ends.

D. 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.

14.06A.090 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 14.06A.070 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.

14.06A.100 Exemptions. Any area affected by a water shortage due to infrastructure or mechanical malfunction caused by human error shall be exempt from any water shortage water rate increases.

14.06A.11 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 subsection A, 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.

14.06A.120 Review. A. The council shall review this chapter beginning January 1, 2017, 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 6. 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 7. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND
LEGALITY:

Department of the Corporation Counsel
County of Maui

wr:misc:018abill07:kcw