

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

**DRAFT**

BILL NO. \_\_\_\_\_ (2015)

A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.13, MAUI COUNTY CODE, ENTITLED "WATER METER ISSUANCE PROVISIONS FOR THE UPCOUNTRY WATER SYSTEM", RELATING TO FIRE PROTECTION

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

SECTION 1. Section 14.13.020, Maui County Code, is amended to read as follows:

**"14.13.020 Purpose.** The purpose of this chapter is to provide uniform handling of applications for water service from the priority list.

It is the Council's express intent to resolve the long-standing issue of the upcountry priority list and also to find ways to provide opportunities for affordable housing in the County. To accomplish these goals, the Council desires to give upcountry residents on the priority list the opportunity to receive water service to their premises, subject to certain conditions and restrictions, so that it may be possible to build a home on their property for themselves or their family."

SECTION 2. Chapter 14.13, Maui County Code, is amended by adding a new section to be appropriately designed and to read as follows:

**"14.13.065 Exemption from fire protection mainline infrastructure improvements.** A. An applicant on the priority list whose application is being processed because additional source has become available and whose premises directly front the department's existing water system which has been determined adequate by the department to supply potable domestic and irrigation water demand to the said premises shall not be required to make further infrastructure mainline improvements for fire protection, provided that:

1. In the case of a subdivision application, the subdivision is a subdivision for only two lots, or is amended to a subdivision for two lots; or

2. In the case of a single water service request, said request shall not be allowed to be revised to a two-lot subdivision or otherwise; and

3. The exemption from review for fire protection for the first and second dwelling unit as provided in section 14.04.020(A) of this code shall not apply to premises that receive water service pursuant to this section. The requirements for adequate fire protection for building permit applications for residential dwelling units and associated structures permitted in any zoning district listed in chapter 19 of this code, shall be reviewed, administered and issued by the Department of Fire and Public Safety in accordance with section 16.04C.460 of this code, however, the exemptions contained in said section 16.04C.460 shall not apply; and

4. The requirements of section 16.04C.470 (subsection 18.4.6) of this code shall not apply to subdivisions that receive water service pursuant to this section; and

5. This exemption from making further infrastructure mainline improvements for fire protection shall not apply to any subsequent development or subdivision of any resulting parcels, and any such subsequent development or subdivision shall be subject to the requirements of section 14.05.090 of this code; and

6. No remote meters shall be permitted; and

7. The owner of such lot or lots shall enter into an agreement with the County, whereby the lot owner agrees 1) to accept such water service as the department is able to render from its existing facilities and shall execute a written release in favor of the County for all claims on account of any inadequacy in the County's system or inadequacy of water supply to the premises for fire protection and 2) that further subdivision or requests for building permits for further development may require the installation of water system improvements, such as water mains and fire hydrants for fire protection. Such agreement shall be recorded with the bureau of conveyances or the land court of the State, shall run with the land, and unless released or cancelled by the County, shall bind the owner of the lot or lots and bind and constitute notice to all subsequent grantees, successors, assignees, mortgagees, lienors, and other persons claiming any interest in the lot or lots.

B. The provisions of this section shall apply to applicants on the priority list as of January 1, 2013. An applicant who was

formerly on the priority list and was offered water service by the department after January 1, 2013, but declined water service due to the inability to complete water system improvements may be eligible to be placed back on the priority list and at their prior number if:

1. Said applicant is still the owner of the premises listed on their prior application; and

2. Their application complies with subsection 14.13.065(1)(a) or (b), above.

Such applicant shall be notified in writing by certified mail, return receipt requested, at the address listed on the application. The applicant shall be given sixty days from the date the certified mail was received by the applicant to complete and deliver to the department an application for water service or to reserve an allocation of water service in accordance with the department's established rules, regulations, and procedures. Failure to respond within sixty days or the return of an unsigned return receipt will be treated as a refusal of water service."

SECTION 3. Section 14.13.100, Maui County Code, is amended to read as follows:

**"14.13.100 Applicability.** Prior to the enactment of this chapter, the board promulgated an administrative rule known as the "Water Meter Issuance Rule for the Upcountry Water System", which rule is codified as chapter 106, subtitle 1, title MC-16 of the rules and regulations of the department of water supply, County of Maui. No provisions contained in this chapter shall affect the rights, privileges, remedies, requirements, or duties of any applicant or the department in accordance with said chapter 106 that have accrued prior to the effective date of this chapter.

Further, the Council is aware that for many years, this code has required water meter applicants to complete water system improvements, including fire protection improvements, to their premises and/or to the department's water system prior to the installation of a water meter. The Council understands that such requirement caused considerable expense to some applicants who accepted that responsibility in exchange for water service to their premises. However, it is the Council's desire to move forward and eliminate obstacles for upcountry residents to receive water service. Therefore, it is the Council's express intent that nothing herein shall give rise to a cause of action against the County or the department for full reimbursement for past installed improvements or for loss of value to real property caused by any action or code requirements prior to the effective date of section 14.13.065 of this code relating

to the acceptance or refusal of water service from the department, and to the requirement of the installation of water system improvements.”

SECTION 4. New material is underscored. In printing this bill, the County Clerk need not include the underscoring.

SECTION 5. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM AND LEGALITY:

**JRANA**

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JENNIFER M.P.E. OANA  
Department of the Corporation Counsel  
County of Maui  
2015-07-15 Ordinance Chapter 14.13  
2014-3085