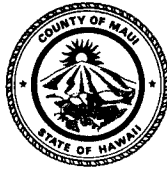


CHARMAINE TAVARES
Mayor



BRIAN T. MOTO
Corporation Counsel

DEPARTMENT OF THE CORPORATION COUNSEL
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
TELEPHONE: (808) 270-7740 FAX 270-7152

September 17, 2008

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MEMORANDUM

T O: Michelle Anderson, Chair
Water Resources Committee

F R O M: Edward S. Kushi, Jr., Deputy Corporation Counsel

SUBJECT: WATER CONSERVATION (WR-14)

A handwritten signature in black ink, appearing to be "E. Kushi, Jr.", is written over the "F R O M:" line of the memorandum.

In response to your memorandum of September 16, 2008, attached is the proposed bill entitled "A BILL FOR AN ORDINANCE ESTABLISHING AN OUTDOOR IRRIGATION AND WATER USE SCHEDULE", approved as to form and legality.

If you have any questions or concerns, please do not hesitate to contact me.

ESK:ln
Enclosures

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ORDINANCE NO. _____

BILL NO. _____ (2008)

A BILL FOR AN ORDINANCE ESTABLISHING AN
OUTDOOR IRRIGATION AND WATER USE SCHEDULE

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

SECTION 1. Section 14.01.040, Maui County Code, is amended by adding new definitions to be appropriately inserted and to read as follows:

"Address" means the house number (a numeric or alphanumeric designation) that, together with the street name, describes a physical location of a specific property.

"Drip irrigation" means low-pressure, low-volume irrigation applied slowly, near or at ground level, to minimize runoff and loss to evaporation.

"Even-numbered address" means an address ending with the number 0, 2, 4, 6, 8, or no number.

"Odd-numbered address" means an address ending with the number 1, 3, 5, 7, or 9.

"Reclaimed water" means the same as defined in section 20.30.030 of this code."

SECTION 2. Section 14.01.040, Maui County Code, is amended by amending the definition of "irrigation" to read as follows:

"Irrigation" means the use of water for grazing, [and] agricultural, and landscaping purposes."

SECTION 3. Chapter 14.03, Maui County Code, is amended by adding new sections to be appropriately designated and to read as follows:

"14.03.030 Outdoor irrigation and water use. A. The following irrigation restrictions shall apply to all sources of potable and non-potable water, including private wells and surface water. All irrigating shall be restricted to the hours between 6:00 p.m. on the designated day until 9:00 a.m. the following day. Properties with an even-numbered address shall irrigate only on Tuesdays, Thursdays, and Saturdays. Properties with an odd-numbered address shall irrigate only on Sundays, Wednesdays, and Fridays. Common areas with no addresses shall be irrigated on Mondays, Wednesdays, and Saturdays. Large landscaped areas that must be irrigated in rotated zones shall irrigate some zones on Tuesdays, Thursdays, and Saturdays, and remaining zones on Sundays, Wednesdays, and Fridays.

B. Water runoff onto streets, sidewalks, and gutters shall be prohibited.

C. The above restrictions shall not apply to:

1. Any irrigation using hand-held hoses equipped with automatic shut-off nozzles;

2. Drip irrigation systems;

3. Irrigation by commercial or private nurseries or farms qualifying for agricultural water rates;

4. Irrigation of personal food gardens;

5. Installation, repairs, or maintenance of new or existing irrigation systems;

6. Irrigation between the hours of 6:00 p.m. and 9:00 a.m. using one hundred percent reclaimed water;

7. Irrigation of golf courses between the hours of 6:00 p.m. and 9:00 a.m.;

8. Newly installed landscapes, which may be watered on a daily basis for up to ninety days from the date of installation to establish plantings;

9. Athletic playing fields, which may irrigate four days per week between the hours of

6:00 p.m. and 9:00 a.m. to maintain playing condition of fields;

10. Manual car and boat washing that use hand-held hoses equipped with automatic shut-off nozzles;

11. Flow resulting from firefighting or routine inspection of fire hydrants or from firefighting training activities;

12. Flow resulting from routine inspection, operation, or maintenance of a utility water supply system; or

13. Flows resulting from temporary water supply system failures or malfunctions.

D. Persons with extraordinary irrigation circumstances may request an exception to the watering schedule from the director.

E. The department shall develop an education program to implement this section.

F. The provisions of this section shall be reviewed for effectiveness by the department and the county council after one year of its enactment.

G. This section shall be subject to the provisions and restrictions in any drought declaration.

14.03.035 Enforcement. A. Notice of violation and warning. Any person violating any of the provisions of section 14.03.030, shall be served by mail, return receipt requested, or personal delivery with a notice of violation and warning.

1. The notice of violation shall state:

a. The date of the notice;

b. The name and address of the person noticed;

c. The nature of the violation and the specific section number violated; and

d. The location, time, and date of the violation.

2. The warning shall state that the violator shall:

a. Cease and desist from the violation; and

b. If necessary, correct the violation at the person's own expense before a specified date.

3. The warning shall also warn the violator that any future violation of any provision of section 14.03.030 within ninety days of the date of the notice of violation and warning may result in the violator being served with a notice of violation and order.

B. Notice of violation and order. If the director determines that a person served with a notice of violation and warning has subsequently violated any provision of section 14.03.030 within ninety days of the date of the notice of violation and warning, the director may have the person served by mail, return receipt requested, or by personal delivery, with a notice of violation and order pursuant to this section and such administrative rules as the director may adopt.

1. The notice of violation shall state:
 - a. The date of notice;
 - b. The date of the notice of violation and warning;
 - c. The name and address of the person noticed;
 - d. The nature of the violation and the specific section number violated; and
 - e. The location, time, and date of the violation.

2. The order may require the person to do any or all of the following:

- a. Cease and desist from the violation;
- b. If necessary, correct the violation at the person's own expense before a date specified in the order;
- c. Pay a civil fine not to exceed five hundred dollars in the manner, at the place, and before the date specified in the order; and
- d. Pay a civil fine not to exceed five hundred dollars per day for each day in which the violation persists, in the manner and at the time and place specified in the order.

3. The order shall advise the person that the order shall become final thirty days after the date of its delivery unless the order is properly appealed to the board; however, any

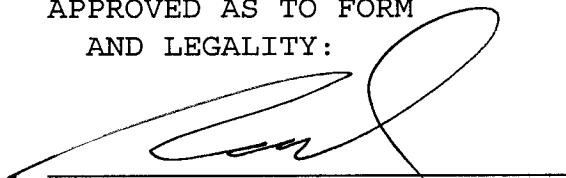
appeal to the board shall not stay any provision of the order. It is specifically intended that any appeal of the director's decision under this section shall be heard by the board in accordance with the provisions of chapter 14.11 of this code, and not by the board of variances and appeals pursuant to section 19.530.030.C of this code.

4. Judicial enforcement of order. The director may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued pursuant to this section. Where the civil action has been instituted to enforce the civil fine imposed by said order, the director need only show that the notice of violation and order was served, that a civil fine was imposed, the amount of the civil fine imposed, and that the fine imposed has not been appealed in a timely manner nor paid."

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.

SECTION 5. This ordinance shall take effect thirty days after its approval.

APPROVED AS TO FORM
AND LEGALITY:



EDWARD S. KUSHI, JR.
Deputy Corporation Counsel
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