

COUNCIL OF THE COUNTY OF MAUI
WATER AND INFRASTRUCTURE
COMMITTEE

August 9, 2019

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Water and Infrastructure Committee, having met on July 22, 2019, makes reference to County Communication 17-242, from the Director of Water Supply, transmitting a proposed bill entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 14.05.050, MAUI COUNTY CODE, RELATING TO REIMBURSEMENT FOR SUBDIVISION WATER MAIN EXTENSION."

The purpose of the proposed bill is to establish maximum reimbursement amounts for subdivision water main extensions and define the term "large quantities of water" as it applies to the conditions under which reimbursement of off-site water mains may be approved.

Your Committee notes the Council's Water Resources Committee (2017-2019 Council term) met on May 16, 2018, July 18, 2018, August 30, 2018, and December 5, 2018.

At the request of the Chair of your Committee, by correspondence dated July 17, 2019, the Department of the Corporation Counsel transmitted a revised proposed bill, approved as to form and legality, incorporating: an increased maximum reimbursement amount for subdivision water main extensions; revised reimbursement requirements; deletion of the clause relating to "large quantities of water"; and other amendments, including nonsubstantive revisions. The amendments were based on guidance provided to the Chair of your Committee based on consultation with the Department of Water Supply.

The Chair of your Committee explained the process for subdivision water main extension reimbursements under the revised proposed bill:

COUNCIL OF THE COUNTY OF MAUI
WATER AND INFRASTRUCTURE
COMMITTEE

Page 2

Committee
Report No. _____

1. When a subdivider proposes to install subdivision water system improvements, some portion of those improvements may qualify for a partial reimbursement from the Department of Water Supply.
2. The Department reviews the subdivision water system construction plans, and if there is a qualifying water main extension, the Department and the subdivider will enter into an agreement for reimbursement.
3. After the water system improvements are completed, the Department performs final inspection and acceptance.
4. The reimbursement agreement is amended if the final reimbursable cost differs from the estimated reimbursable cost.
5. The subdivider receives the first reimbursement payment at the end of the fiscal year in which the water system improvements are accepted by the Department.
6. Reimbursements are made in five equal annual installments, without interest.

The Engineering Program Manager explained the revised proposed bill modifies the existing ordinance in three key ways by placing a \$100,000 limit on reimbursement, providing a consistent 50 percent reimbursement rate, and allowing subdividers five years to complete the subdivision water system improvements.

The Engineering Program Manager told your Committee historical data showed \$100,000 was a reasonable reimbursement limit.

Your Committee inquired about the 50 percent reimbursement rate. The Engineering Program Manager explained the existing ordinance provides for 75 percent reimbursement for family subdivisions, but the subdivision is often sold outside the family after reimbursement. Thus, the Department deleted the higher reimbursement rate for family

COUNCIL OF THE COUNTY OF MAUI
WATER AND INFRASTRUCTURE
COMMITTEE

Page 3

Committee
Report No. _____

subdivisions, resulting in a consistent reimbursement percentage for all subdividers.

Your Committee expressed support for the bill, which will allow the Department to plan better and place a cap on costs.

Your Committee voted 5-0 to recommend passage of the revised proposed bill on first reading and filing of the communication. Committee Chair Lee, Vice-Chair Paltin, and members Kama, Molina, and Sinenci voted "aye." Committee members Hokama and Rawlins-Fernandez were excused.

Your Water and Infrastructure Committee RECOMMENDS the following:

1. That Bill _____ (2019), as revised herein and attached hereto, entitled "A BILL FOR AN ORDINANCE AMENDING SECTION 14.05.050, MAUI COUNTY CODE, RELATING TO REIMBURSEMENT FOR SUBDIVISION WATER MAIN EXTENSION," be PASSED ON FIRST READING and be ORDERED TO PRINT; and;
2. That County Communication 17-242 be FILED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



ALICE L. LEE, Chair

ORDINANCE NO. _____

BILL NO. _____ (2019)

A BILL FOR AN ORDINANCE AMENDING SECTION 14.05.050,
MAUI COUNTY CODE, RELATING TO REIMBURSEMENT
FOR SUBDIVISION WATER MAIN EXTENSION

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

SECTION 1. This ordinance's purpose is to: 1) state conditions under which subdivision water main extension reimbursements shall be made, and 2) control the County's reimbursement costs.

SECTION 2. Section 14.05.050, Maui County Code, is amended to read as follows:

"14.05.050 Reimbursement for water main extension.

A. If the department's facilities in the area are inadequate, or where [departmental] the department's facilities are not readily available to serve a proposed or existing subdivision, the subdivider shall extend a water main from [the nearest adequate departmental facility. The water main so constructed connecting the subdivision water system to] the nearest point of adequacy of the public water system [shall be deemed a main extension.] to the subdivision water system. That water main is a "water main extension."

B. The department shall reimburse the subdivider [shall be reimbursed] for the cost of a water main extension in accordance with this section. However, no reimbursement shall be made if [the]:

1. The water main extension will only serve areas under the same ownership as the subdivision under construction.

2. [In no case shall reimbursement for water main extension be made for any portion of the cost of a main] The water main extension is less than [six-inch size] six inches in diameter in agricultural, rural, and residential [areas,] zoned districts, or [of any of the portion of the cost of a main] less than [eight-inch size] eight inches in diameter in other [areas.] zoned districts.

3. The water main extension is funded solely or partially by a grant to the subdivider by the county, the state, or the federal government.

4. The water main extension was not approved by the department prior to the installation.

5. The subdivider and the department did not execute an agreement for reimbursement in accordance with this section, prior to installing the water main extension.

6. The subdivider is receiving transmission credits for the water main extension.

C. The department shall reimburse the subdivider [fifty] 50 percent of the cost of a water main extension[.], not including the costs for water service laterals, fire hydrant assemblies, fire hydrant tees, fire hydrant laterals, design, and easements, up to a maximum reimbursement of \$100,000. [For subdivisions that result from an immediate transfer of property to a person or persons who are related to the subdivider by blood, adoption or marriage, specifically limited to a spouse, parents, children, grandparents, grandchildren, or siblings, the reimbursement shall be seventy-five percent.]

D. The reimbursement procedure shall be as follows:

1. Prior to installation of the water main extension, the subdivider shall enter into an agreement for reimbursement with the department[.] based on the department-approved estimated construction cost of the water main extension. If the subdivider [has] is not [substantially complied with the terms of the agreement] ready for water service within [one year] five years from the date [thereof,] of the agreement, the agreement [may, in the discretion of the director, be terminated.] shall expire.

2. After the work has been completed and before acceptance, the subdivider shall furnish the department with an affidavit itemizing the costs incurred by the subdivider for the installation of the water main extension.

3. [Reimbursement shall be made in five equal annual installments, without interest. For subdivisions that result from an immediate transfer of property to a person or persons who are related to the subdivider by blood, adoption or marriage, specifically limited to a spouse, parents, children, grandparents, grandchildren, or siblings, the reimbursement shall be made in two equal annual installments, without interest. The initial payment will be made at the end of the fiscal year in which the construction project is completed and accepted by the department.] The department shall determine the final reimbursable cost of the water main extension installed by the subdivider, based upon the subdivider's affidavit of the construction cost, less any reimbursement

made under section 14.05.040. If the estimated construction cost differs from the final reimbursable cost, the subdivider shall enter into an amended agreement based on the final reimbursable cost approved by the department before any reimbursement is made.

4. [The department shall make the final determination as to the cost of the off-site water main or main extension installed by the subdivider, and reimbursement shall be based upon said estimates of the department, less any reimbursement made under section 14.05.040.] Reimbursement shall be made in five equal annual installments, without interest. The initial payment will be made at the end of the fiscal year in which the construction project is completed and accepted by the department.

5. All reimbursements shall be payable to the [original] subdivider entering into the agreement with the department, unless otherwise directed by the [original] subdivider in writing. For purposes of this section, "subdivider" includes any owner of a parcel in the subdivision who enters into an agreement with the department to extend a water main to the subdivision in accordance with this section.

[D. Where large quantities of water are required or a large investment is necessary to provide service, the subdivider shall be informed as to the conditions under which reimbursement for off-site water mains may be approved.

E. Reimbursement shall not be made to subdividers for mains installed to a subdivision where such mains were not approved by the department prior to their installation.

F. Reimbursement shall not be made to a subdivider for main extensions installed to a subdivision in areas where an agreement for reimbursement for water main extension already exists.] E. The department shall not enter into an agreement for reimbursement with a subdivider if an agreement for reimbursement already exists for a water main extension with the same diameter size in the same location."

SECTION 3. This ordinance shall take effect upon its approval, except that the version of Section 14.05.050, Maui County Code, in effect prior to this ordinance's enactment shall apply to the following: 1) a subdivision water main extension reimbursement agreement between the Department of Water Supply and the subdivider that is valid on the effective date of this ordinance; 2) a parcel

of real property with a water meter reservation approved by the Department of Water Supply pursuant to Chapter 14.07, Maui County Code, that is valid on the effective date of this ordinance; and 3) a valid subdivision with construction plans approved by the Department of Water Supply that is valid on the effective date of this ordinance.

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.

APPROVED AS TO FORM
AND LEGALITY:



JENNIFER M.P.E. OANA
Deputy Corporation Counsel
County of Maui
2019-0102/2017-0536
WAI-18 2019-07-17 Ord Amd 14.05.050