

RECEIVED OCS
25 NOV 5 PM 3:20

RICHARD T. BISSEN, JR.
Mayor

JOSIAH K. NISHITA
Managing Director

JOHN STUFFLEBEAN, P.E.
Director

JAMES A. LANDGRAF
Deputy Director



DEPARTMENT OF WATER SUPPLY
COUNTY OF MAUI
200 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
<http://www.mauicounty.gov/water>



November 5, 2025

The Honorable Richard T. Bissen, Jr.
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Tom Cook, Chair
Water and Infrastructure Committee
Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Chair Cook,

**SUBJECT: BILL 158 (2025), ON WATER CONSERVATION AND CONTROL OF
WATER USE DURING WATER SHORTAGES (WAI 18)**

APPROVED FOR TRANSMITTAL

Richard T. Bissen, Jr.
Mayor
11-6-25
Date

After consulting with your committee staff and the Office of Council Services staff to address questions regarding the proposed Bill 158 (2025) referenced above, I am pleased to submit the attached revised bill for your consideration. Please find enclosed our response to your letter dated October 28, 2025, which addresses your committee staff's and Office of Council Services' specific questions on the proposed bill.

This legislation is designed to address the growing challenges posed by prolonged drought conditions and declining water resources by establishing clear guidelines, mandatory conservation measures, and effective enforcement mechanisms. The bill aligns with our ongoing commitment to sustainable water management and supports the County's broader efforts to safeguard this vital resource for current and future generations.

"By Water All Things Find Life"

I. Rationale for the Legislation

With drought conditions expected to worsen and surface flows and groundwater recharge rates declining, there is an urgent need to strengthen water conservation efforts to prevent more frequent water shortage declarations—especially given the low stream flows caused by decreasing rainfall. The purpose of the proposed Bill for an Ordinance, attached, aims to foster responsible water use and ensure a reliable and sustainable water supply for current and future needs by promoting responsible water usage. This is achieved by:

- Establishing new water conservation definitions;
- Recommending best management practices for residential, commercial, and agricultural indoor and outdoor water users;
- Providing pool cover requirements;
- Establishing standards for water-efficient irrigation methods and applications;
- Creating opportunities for water reuse for eligible permittable users;
- Defining and addressing water waste;
- Authorizing actions the department may take to limit water usage during declared water shortages;
- Promoting water-efficient practices based on the precautionary principle to safeguard public water sources from harm; and
- Providing clear guidance, explanatory information, and remedies for ordinance violations.

These proposed changes will also strengthen enforceability of responsible water use, helping to strengthen community resilience that's dependent on drought-affected water supplies fed by streams and groundwater aquifers while ensuring equitable access to water for all County residents.

II. Community Engagement and Support

Public meetings were held in the Central, Upcountry, and Lahaina areas to discuss the proposed Bill for an Ordinance, receiving positive and supportive feedback. Residents expressed a desire for clear guidance, rules, and enforcement. Additionally, information about the DWS Water Use and Development Plan and the DWS Water Shortage and Conservation Plan was shared to help the public understand how water resource management and conservation strategies fit into the broader water planning framework. Alongside these overall planning goals, the proposed Bill aims to mandate

conservation measures, offer clearer guidance to improve water use efficiency, and impose limits on water usage during restriction periods.

III. Budgetary and Operational Impacts

The implementation of this ordinance is expected to generate public inquiries and will necessitate updates to outreach materials shared via social media and other public communication channels regarding water conservation practices. While the Department's Water Resources and Planning Division typically addresses questions related to the proposed amendments to Title 14, Chapter 14.06A of the Maui County Code, the Fiscal Year 2026 DWS Budget includes two (2) new positions dedicated to compliance monitoring and enforcement of the ordinance's provisions, which considered local context-specific water use habits and influences.

In addition, the implementation process will focus on strengthening public education initiatives and expanding programs designed to raise awareness. Successful execution of the ordinance will also require coordination across various departments, with specific agencies to be designated. To maximize efficiency, we will integrate these new responsibilities with existing regulatory functions wherever possible.

IV. Alignment with Legal and Policy Requirements

This ordinance fulfills several legal and policy mandates aimed to build community trust and cooperation by aligning with the purposes of other established laws and public documents:

- State Law: Complies with state mandates for water conservation, climate adaptation, and sustainable water resource management, and complies with the following legal foundations and policies:
 1. Under the Hawaii Revised Statutes (HRS) and Article XI, Section 7 of the Hawaii State Constitution, as affirmed by the Hawaii Supreme Court (94 H. 97, 9 P.3d 409), Hawaii law recognizes water as a public trust resource, requiring the state to protect it for the public, Native Hawaiian rights, and environmental purposes.
 2. State Water Code (HRS Chapter 174C) which establishes water as a public resource that requires its use with environmental protection.
 3. Hawaii Water Plan which contains:
 - a. Water Resource Protection Plan that outlines the protection and sustainability of surface and groundwater resources;
 - b. Water Quality Plan outlining regulations, standards, and policies for maintaining the quality of ground and surface water resources;

Honorable Tom Cook, Chair
Water and Infrastructure Committee
Maui County Council
November 5, 2025
Page 4

c. State Water Projects Plan that provides a framework for planning and implementing state water development programs to meet future water demands; and

d. Agricultural Water Use and Development Plan that assesses irrigation water needs, identifies sources of agricultural water, and develops strategies for water conservation and demand for the sector.

4. Hawaii Drought Plan which guides and coordinates efforts to monitor, respond to, and mitigate drought conditions, aiming to protect water resources, agriculture, and the public from the impacts of reduced rainfall.

- County Charter/Code: Supports the County's responsibility to safeguard public health, protect environmental resources, and manage utilities operations in the public interest, and complies with the following County plans:

1. Water Use and Development Plan which serves as the long-range planning blueprint for all uses of water for the County (HRS Section 174(C)-31 and 13-7-170).

2. Water Shortage and Conservation Plan which provides courses of action for how the County can prepare for, respond to, and manage water shortages—whether due to drought, infrastructure issues, climate events, or other causes while also promoting long-term water conservation.

3. Maui General Plan 2030 and the Maui Island Plan adopted on December 28, 2012, which establishes long-term vision for the island's physical, economic, environmental, and cultural identity. They also outline goals policies, programs and actions based on current conditions and future needs from available resources.

We appreciate your committee's intention to discuss Bill 158 (2025) at the December 1, 2025, meeting of the Water and Infrastructure Committee. Thank you for your consideration. Please contact me if you have any questions.

Sincerely,



JOHN STUFFLEBEAN, P.E.
Director

Enclosures

cc: Robert De Robles, Planner VI
Eva Blumenstein, Planning Program Administrator

ORDINANCE NO. _____

BILL NO. _____ (2025)

A BILL FOR AN ORDINANCE AMENDING TITLE 14, ARTICLE 1,
MAUI COUNTY CODE, RELATING TO PUBLIC SERVICES,
REPEALING CHAPTER 14.06A, AND ESTABLISHING A NEW
CHAPTER 14.06B RELATING TO WATER CONSERVATION AND
CONTROL OF WATER USE DURING WATER SHORTAGES

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

SECTION 1. The purpose of this water conservation ordinance is to ensure a reliable and sustainable water supply for current and future needs by promoting responsible water usage. This is achieved by providing new water conservation definitions, best management practices for residential, commercial and agricultural indoor and outdoor water users, and the opportunity to address scarcity with water reuse for permissible users. There are also new definitions for water waste, and actions that may be taken by the department to limit water usage during declared water shortages, and policies to promote water-efficient practices as a precautionary principle to safeguard and prevent harm to public water sources. Guidance, explanatory information, and remedies for violations against this ordinance are also added. Ultimately, this ordinance aims to protect surface water and groundwater aquifer supplies and ensure equitable access to water for all County residents.

Section 2. Section 14.01.040, Maui County Code, is amended by adding new definitions to be appropriately inserted and to read as follows:

“Best management practices” means practices, or a combination of practices, which have been determined through research, field testing, and expert review, to be the most effective and practicable on-site means for improving water quality, conserving water supplies, and protecting natural resources. These practices may be based upon both economic and technological considerations.

“Bubbler irrigation” means a system in which water bubbles up and over a sprinkler head in order to provide a slow and consistent water percolation to the root systems of plants.

“Drip irrigation” means any non-spray, low volume, micro-irrigation system specifically designed to apply small volumes of water slowly at, or near, the plant root systems.

“High-efficiency irrigation system” means an automated, water-efficient irrigation system which includes a weather-based controller that automatically ceases irrigation during rain and high winds; is programmed to consider landscape factors in order to optimize irrigation schedules and water needs; and includes rotary sprayers, irrigation bubblers, or drip irrigation systems that deliver precise amounts of water to avoid water waste.

“Public use” means the use of water by the government of the United States, the State of Hawaii, or the County of Maui for the public benefit.

“Smart meter” means a water metering device capable of measuring and communicating water usage data from consumer meters to facilitate water management and more accurate billing.

“State” means State of Hawaii.

“Soaker hose” means an above-surface, porous irrigation hose that weeps or perspires droplets of water along its entire length.

“Water efficient” means the use of water that applies water conserving technologies and methods that meet water demands while also preventing waste. The following practices are considered to be water efficient:

1. Installation of water fixtures and water equipment that are labeled as water efficient.
2. Installation of automated irrigation systems that provide for optimal irrigation scheduling and water flow-rate management and which include drip and bubbler emitters.
3. Installation of toilets, washing machines and dish washers that are labeled as water-efficient and energy-efficient.
4. Installation of hot water recirculators.
5. Use of functional, recreational turf in lieu of other types of water-reliant ground cover.

6. Xeriscaping with native plants or water-efficient plants.

“Xeriscaping” means the use of landscape materials and designs with low water demand. This includes landscaping that mimics the natural state of the geographical area or native environment and the use of native flora and soils.”

SECTION 3. Title 14, Article 1, Maui County Code is amended by adding a new chapter to be appropriately designated to read as follows:

“Chapter 14.06B

**WATER CONSERVATION AND CONTROL OF WATER USE
DURING WATER SHORTAGE**

Sections:

- 14.06B.010 Policy statement.**
- 14.06B.020 Application and purpose.**
- 14.06B.030 Leak detection.**
- 14.06B.040 Education and incentives.**
- 14.06B.050 Declaration of water shortage.**
- 14.06B.060 Stages of water shortage.**
- 14.06B.070 Notice and publication of declaration of water shortage.**
- 14.06B.080 Effect of water shortage declaration on agricultural consumers.**
- 14.06B.090 Outdoor water use.**
- 14.06B.100 Water waste.**
- 14.06B.110 Water conservation at commercial establishments.**
- 14.06B.120 New irrigation systems.**
- 14.06B.130 New landscape design projects.**
- 14.06B.140 Water reuse.**
- 14.06B.150 Swimming pools.**
- 14.06B.160 Violation-penalty.**
- 14.06B.170 Review.**
- 14.06B.180 Administrative rules.**
- 14.06B.190 Conditional hardship waiver.**

14.06B.010 Policy statement. A. Under article XI, section 1 of the Hawaii state constitution, water is a public natural resource held in trust by the State for the benefit of the people. The County,

as a political subdivision of the State, has an obligation to conserve and protect the State's water resources.

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 protect and preserve water resources for the public's health, safety, and welfare.

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

E. Public trust purposes of water use receive priority during times of scarcity.

F. The precautionary principle: The State and County have a duty to take anticipatory action to: prevent harm to public resources; maintain sanitation, public health, and fire protection; prevent excessive water use; and promote water conservation.

14.06B.020 Application and purpose. This chapter applies to all potable water consumers of the department, and customers of private operators who are subject to these conditions as a result of either an agreement between the private operator and the County, or as a condition of a land use entitlement. The purpose of this chapter is to promote conservation of the County's public and private potable water sources consistent with the following:

A. State of Hawaii, Hawaii Water Plan, which includes the Maui Island Water Use and Development Plan.

B. State of Hawaii, Hawaii Water Conservation Plan.

C. State of Hawaii, Hawaii Drought Plan, 2005 Update and Revised Hawaii Drought Plan, 2017 Update.

D. Hawaii Revised Statutes section 226-109, climate change adaptation priority guidelines.

E. Maui County planting plan as per chapter 12.24A landscape planting and beautification.

F. Maui County Department of Water Supply, Water Shortage and Conservation Plan of April 2024.

G. Any water shortage or water conservation plans issued by the State of Hawaii, department of land and natural resources, commission on water resource management.

14.06B.030 Leak detection. A. The department will monitor water consumption and issue high-consumption notices to consumers when appropriate.

B. The department will utilize leak detection technologies and smart meters, to the extent practicable, to locate and repair water losses within its distribution system.

C. The department will prioritize the replacement of old and leak-prone water mains and will encourage consumers to report

and repair water line leaks located on private property within three days or less, depending on the severity of the leak. Unresponsive owners of both occupied and unoccupied properties may face fines and service shutoff if the leak is not repaired within 30 days.

D. When available, the department will reasonably distribute leak detection tablets or other leak detection methods to detect toilet tank leaks to a consumer upon request.

E. Consumers must repair leaks on the consumer side of the water meter at the earliest possible time after such leak has been identified.

F. The department may issue a notice to repair an identified leak within 30 days of the notice. Where the leak results in severe water loss, the department may require expedited repair within a time to be determined by the department at its sole discretion.

14.06B.040 Education and incentives. A. The department will promote water conservation education.

B. The department will reasonably provide public outreach events, presentations, water conservation workshops, and a variety of indoor and outdoor fixture incentives or rebates through its water conservation program.

C. Commercial and multi-family residential properties served by either public or private water systems are encouraged, where appropriate, to develop and display water conservation and leak detection policies.

14.06B.050 Declaration of water shortage. A. The director may declare a water shortage whenever the water supply becomes inadequate in any area in the County, or County water system, as a result of a period of drought, an infrastructure or mechanical malfunction, natural disaster, or other event causing a water shortage.

B. The director may declare a water shortage with consideration to the shortage triggers for surface water and groundwater conditions as described in the Maui County Department of Water Supply Shortage and Conservation Plan dated April 2024, as amended. Considerations may include projected surface water production, surface water inflows, ditch flows and well chlorides.

14.06B.060 Stages of water shortage. A. In declaring a water shortage, the director will designate the appropriate stage of the water shortage as follows:

1. Stage 1. Conditions exist for an anticipated shortage to occur over the next 30 days which requires a mandatory reduction in demand of 10 percent to make more efficient use of water supplies.

2. Stage 2. Conditions exist for an anticipated shortage to occur over the next 30 days which requires a mandatory reduction in demand of 20 percent to make more efficient use of water supplies and conserve supplies for human consumption, sanitation and fire protection.

3. Stage 3. Conditions exist for an anticipated shortage to occur over the next 30 days which requires a mandatory reduction in demand of 30 percent to preserve the use of water supplies and conserve supplies for human consumption, sanitation, and fire protection.

B. When a water shortage is declared, the director may apply schedules, restrictions, or measures as follows:

1. Prohibit water usage during certain hours, or days of the week, or both.

2. Prohibit the use of water for irrigation, lawns, personal washing of vehicles, or other nonessential activities.

3. Prohibit the use of temporary construction meters if the use of recycled R-1 water is economically feasible to be delivered by a water delivery truck to the construction site.

4. Institute water shortage water rates as set in the annual budget ordinance.

5. The schedules, restrictions, and measures included in any water shortage plans for designated water management areas will take precedence in those areas unless the director determines more restrictive actions are required.

C. Failure of a consumer to comply with any mandated water restriction may result in penalties established in section 14.06B.160.

14.06B.070 Notice and publication of declaration of water shortage. A. In declaring a water shortage, a notice of declaration of water shortage must be published in a newspaper of general circulation, on the County's website, and to the extent possible, other available public media in the County, once each week for as long as the water shortage exists. Except during a Stage 3 water shortage, the first notice of a water shortage will be published at least seven calendar days prior to the beginning date of any water shortage.

B. Each water shortage notice must state the duration of the restrictions, the application of water shortage rates, and any other measures established by the director to moderate, within reasonable limits, water usage.

C. When a water shortage declaration stage changes, or when the water shortage declaration ends, a notice must be published in a newspaper of general circulation, and on the County's website, and to the extent possible, other available public media, in the County.

14.06B.080 Effect of water shortage declaration on agricultural consumers. A. If a water shortage declaration is made, agricultural water consumers will be requested to reduce water consumption but are not required to implement any restrictions or mandates imposed by section 14.06B.060 for the first 180 days after publication in a newspaper of general circulation in the County. This section is subject to any declaration issued by the State of Hawaii, department of land and natural resources, commission on water resource management.

B. After the 180 days provided in subsection A, agricultural water consumers must be subject to the same provisions as other consumers.

C. All farming activities should utilize the following best management practices to the extent practicable:

1. Efficient irrigation systems with sensors to monitor soil moisture, and controllers with regulators to regulate water flows based on weather and irrigation data.
2. Installing drip irrigation emitters to control water flow rates.
3. Using rainwater catchments to save and offset limited water supplies.
4. Implementing soil management that includes composting and mulching, using cover crops, conservation tillage, and crop rotations.
5. Washing produce on-site and recapturing used water with a water recycling system for reuse.
6. Choosing sustainable crop varieties that have low water needs.

14.06B.090 Outdoor water use. A. The watering or irrigating of lawn, landscape, or other vegetated areas is prohibited between the hours of 9:00 a.m. and 5:00 p.m. regardless of whether a water shortage has been declared according to section 14.06B.050.

B. Landscape irrigation is allowed for no more than three days per week in accordance with the following schedule, unless a water shortage is declared according to section 14.06B.050, in which case, landscape conditions set forth in the notice will apply.

1. Monday, Wednesday, and Friday for even-numbered residential addresses.
2. Tuesday, Thursday, and Saturday for odd-numbered residential addresses.
3. Wednesday, Friday, and Sunday for even-numbered non-residential establishments and multi-family units.

4. Monday, Thursday, and Saturday for odd-numbered non-residential establishments and multi-family units.

5. Spray irrigation is to be avoided or delayed during excessively windy days.

C. The irrigation restrictions imposed under this section do not apply to:

1. Irrigation using 100 percent recycled water, gray water, or rainwater catchment.

2. Irrigation of crops or pastures by agricultural consumers as defined in section 14.01.040.

3. Irrigation of recently installed seed or sod lawns for a period of up to four weeks after installation.

14.06B.100 Water waste. The use of potable water in a manner that causes waste is unlawful.

A. Water waste includes the following actions:

1. Applying water in quantities for landscapes, yard maintenance, or other outdoor activities, that overflows or sprays onto an adjacent property which pools or obstructs a public thoroughfare, and potentially causes erosion.

2. Disregarding high volume water loss occurring by chronic wastefulness, or not fixing leaks in a reasonable amount of time.

B. Water waste remedies include reasonable efforts to demonstrate the following water conserving practices:

1. Applying drip irrigation, soaker hoses, or rotating micro-spray emitters to trees, plants, and shrubs.

2. Properly adjusting and targeting water-efficient sprinkler heads, bubbler irrigation, and emitters.

3. Regularly monitoring and maintaining irrigation systems; setting efficient watering schedules with timers; or using a smart, central irrigation controller.

4. Using a hand-held bucket or similar container, a hand-held hose equipped with a shut-off nozzle, or using a low volume, high-pressure washer to clean vehicles, boats, or equipment on impervious surfaces to minimize incidental run-off onto adjacent property or the public right-of-way.

5. Clearing yard waste or debris from driveways and sidewalks with a broom or an electric blower.

6. Not irrigating turf and landscapes during rain events and postponing irrigation during high winds.

7. Fixing indoor and outdoor water leaks.

C. Water waste does not apply to:

1. Cleaning outdoor impervious surfaces with water necessary for public health, safety, or when other cleaning methods are impractical and dangerous.

2. Flow resulting from routine inspection, operation, testing, sampling, monitoring, or maintenance of a utility water supply system or as part of a hydrologic study. This water will be captured and reused whenever possible.

3. Flow resulting from firefighting, routine inspection of fire hydrants, or fire-training activities.

4. Water used for construction, repairs, or maintenance activities where the application of water is within the best management practices.

5. Water applied to abate spills of flammable or otherwise hazardous materials, or to prevent or decrease health, safety, or accident hazards.

6. Water use for public infrastructure and street improvements during normal maintenance, emergencies, and natural disasters.

7. Backwashing and periodic draining of swimming pools and spas for sanitary water balancing and necessary pool maintenance.

8. Persons or properties who have received a conditional hardship waiver under section 14.06B.190.

14.06B.110 Water conservation at commercial establishments. A. Commercial establishments serving food or drinks are encouraged to serve complimentary drinking water only upon request by the patron.

B. Hotels, motels, resorts, and other commercial lodging establishments must prominently display to the customers the option of not having towels and bedding linens laundered daily.

C. Hotels, motels, resorts, and other commercial lodging establishments must be water efficient, and make reasonable efforts to make operational improvements to save water by:

1. Installing water-efficient indoor and outdoor fixtures from an efficiency labeling program.

2. Installing water-efficient, smartly controlled, irrigation systems with rain and wind sensors.

3. Hiring professional landscapers trained in water-efficient practices and designs.

4. Installing water-efficient laundry facilities capable of utilizing recycled water when economically feasible.

5. Installing water-efficient, smartly controlled, heating, ventilation, and air conditioning systems which utilize efficient water source heat pumps, heat recovery, and

optimized air handling systems. These systems should be capable of utilizing recycled water when economically feasible.

14.06B.120 New irrigation systems. All new commercial, hotel, multi-family residential, and public use developments proposing new landscape irrigation, or replacing existing irrigation systems, or requesting additional potable water service for landscape irrigation, must install water-efficient irrigation systems.

14.06B.130 New landscape design projects. A. All new commercial, hotel, multi-family residential, and public use development, and all commercial, hotel, multi-family residential, and public use properties proposing to rehabilitate or replace existing landscapes, must properly configure to a high-efficiency irrigation system, and incorporate water efficient landscape planting plans, such as xeriscaping or using native, drought tolerant plants.

B. Developers must provide information pertaining to best management practices to buyers and long-term leaseholders regarding the design, installation, and maintenance of newly installed water efficient landscapes and irrigation systems. Buyers and long-term leaseholders must continue to operate and maintain such water efficient landscapes and irrigation systems.

14.06B.140 Water reuse. A. New commercial conveyor car wash facilities and new commercial laundry facilities, or existing facilities of both seeking additional water service, must use a water reclamation system to treat and reuse water for washing cars and for laundry machines; and self-serve car washes and laundry facilities must install high-efficiency pressure nozzles for normal maintenance and operations.

B. New hotels, motels, resorts, and other commercial lodging establishments must: make reasonable efforts to conserve water during normal operations and maintenance; install water recycling systems subject to State approval; and install water efficient air conditioning systems, laundry operations, and irrigation systems.

C. All new ornamental water features, such as ponds and fountains, in commercial, public, and multi-family dwelling common areas must: be free of water leaks; use a water recirculating system with optimally regulated water pumps; and utilize recycled water when economically practicable.

14.06B.150 Swimming pools. A. Pool covers should be used to limit evaporation from pools under the control, management, and operation of the department of parks and recreation whenever it provides for greater public safety, and for private pools when not in use.

B. Pool covers are required for all private pools and must be utilized when the property is vacant, or when the pool is unused for more than 30 consecutive days, except for times of pool repair.

14.06B.160 Violation-penalty. A. Any consumer violating the schedules, restrictions, or measures established by the director under this chapter may be charged with a violation and, upon conviction, will be subject to a fine of not more than \$1,000 for each violation. The continuation of any violation may be considered a new violation for each day that the violation continues.

B. Notice of violation. The director will have the notice of violation served by mail with a proof of mailing, or by personal delivery to the violator. If service by mail or by personal delivery fails, the director may provide service by: posting the notice of violation and order in a conspicuous place on the property where the violation is occurring or has occurred; post the notice of violation at the last known address of the violator; or, by publishing the notice of violation at least once per week for two consecutive weeks, in a newspaper of general circulation in the County.

1. Contents of the notice of violation. The notice of violation must include the following information:

- a. Date of the notice.
- b. The name and address of the person being noticed.
- c. The section number of the provision or rule that has been violated.
- d. The nature of the violation.
- e. The location and date of the violation.

2. Contents of the order. The order will require the person to do one or more of the following:

- a. Cease and desist from the violation.
- b. Correct the violation at the person's own expense before a date specified in the order.
- c. Pay a civil fine not to exceed \$1,000 in the manner and place, before the date specified in the order. The continuation of any violation may be considered a new violation for each day that the violation continues.
- d. Pay a fine not to exceed \$1,000 per day for each day in which the violation persists, in the manner and at the place specified in the order for ongoing violations.
- e. The order will advise the person that the decision becomes final unless an appeal is filed with

the board of water supply under chapter 14.11, within 30 days after the date of the order's mailing.

3. All notices of violation are final unless an appeal is filed with the board of water supply under chapter 14.11. However, an appeal to the board will not stay any provision of the order.

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 under this section. Where the civil action has been instituted to enforce the civil fine imposed by said order, the director or agency need only show: that the notice of violation and the order were served; that a civil fine was imposed; the amount of the civil fine imposed; and that the fine imposed was not appealed in a timely manner, nor paid.

C. A second violation of this chapter may result in the cessation of water service where the second violation is either: not appealed under chapter 14.11; or has been sustained on appeal.

D. A third violation of this chapter may result in the removal of the customer's water meter where the third violation is either: not appealed under chapter 14.11; or has been sustained on appeal.

E. A reinstalment fee of \$100 will be assessed against the owner of any water meter removed under this section and then reinstalled. If the reinstalment is requested within 36 months of the removal of the water meter, the water system development fee shall not be assessed against the owner. If the reinstalment is requested more than 36 months after removal of the water meter, the owner will also be assessed the water system development fee, as set in the annual budget by ordinance.

14.06B.170 Review. The director will provide a report to the council on all actions taken by the department under this chapter, including a list of water shortage declarations. Each water shortage declaration will include:

1. The areas affected by each water shortage declaration.
2. The duration of each water shortage declaration.
3. The restrictions imposed.

14.06B.180 Administrative rules. The director may adopt administrative rules to implement the provisions of this article.

14.06B.190 Conditional hardship waiver. A. A conditional hardship waiver may be granted by the director under the following conditions:

1. Strict application of this chapter will result in undue hardship against the customer due to unique and

uncommon circumstances, requiring a specific watering necessity as determined on a case by case basis.

2. The conditional hardship waiver will not be detrimental to public health, the public trust, or other properties.

3. Substantial compliance, including use of water conservation efforts and efficient water saving features and fixtures, are already being used to the extent practicable.

4. The requestor has submitted supporting documentation, including an explanation of the need for the conditional hardship waiver, the specific water needs, and photos, plans, or maps substantiating the claim of undue hardship.

B. A conditional hardship waiver must be for a specific duration to be established by the director and may be revoked by the director at any time. A customer may request subsequent waivers upon the showing of a continued need for such a waiver.

C. Waivers are valid from the date of approval and may not be applied retroactively. Any fines for violations accruing prior to the granting of a conditional hardship waiver are final.

D. If a request for a conditional hardship waiver is rejected by the director, the request may be appealed to the board of water supply under chapter 14.11."

SECTION 4. Section 18.08.080, Maui County Code, is amended as

follows:

"18.08.080 Explanatory information. The following information [shall] must be submitted with the preliminary plat. If [it] the information cannot be easily shown [practicably] on the preliminary plat, it [shall] must be submitted in separate statements accompanying the preliminary plat:

A. A vicinity map at a small scale, showing existing subdivided land ownerships adjacent to the proposed subdivision, and showing how proposed streets may be extended to connect with existing streets[;] .

B. The approximate location within the subdivision and in the adjoining streets and property of existing sewers and water mains, culverts and drainpipes, electric and communication conduits or lines proposed to be used on the property to be subdivided and invert elevations of sewers at points of proposed connections[;] .

C. [Statement] A statement regarding the water system to be installed. The statement must include landscape design, irrigation, and water conservation measures as required under

chapter 14.06B. Should a private water system be proposed, a statement on source, quality and quantity of water [shall] will also be included[;] .

D. Provisions for sewage disposal, drainage and flood control which are proposed[;] .

E. Parcels of land proposed to be dedicated to public use, and the conditions of such dedication[;] .

F. Improvements to be made by the developer and the approximate time such improvements are to be completed. Sufficient detail regarding proposed improvements [shall] must be submitted so that they may be checked for compliance with objectives of this chapter, State laws and other applicable County ordinances.”

SECTION 5. Section 18.16.320, Maui County Code, is amended by amending the definition of “Privately owned parks and playgrounds” to read as follows:

““Privately owned parks and playgrounds” mean parks or playgrounds and their facilities which are not dedicated to the County, but which are owned and maintained by, or on behalf of, the ultimate users of the subdivision [pursuant to] under recorded, perpetual restrictive covenants. Where the privately owned park is a part of the lot or lots on which a building or group of buildings containing or divided into three or more dwelling units or lodging units are constructed, it [shall] will not be required that the private park or playground meet County subdivision standards, except that the private park or playground must meet irrigation standards required by chapter 14.06B, nor [shall] will the area of the private park or playground be deducted from the area of the lot or lots for purposes of zoning or building requirements.”

SECTION 6. Section 19.530.030, Maui County Code, is amended to read as follows:

“19.530.030 Administrative enforcement. In lieu of, or in addition to, enforcement by criminal prosecution, if the director of public works, the director of environmental management, the director of water supply, or the planning director determines that any person is violating or has violated any provision of titles [8,] eight, 12, 14, (except for chapter 14.06B), 16, 18, 19, and 20 [of this code,] , or any rules adopted [thereunder], or any permit issued

[thereto], the director with jurisdiction over the relevant ordinance, rule, or permit, [shall] will have the person served by mail with proof of mailing or by personal delivery, with a notice of violation and order [pursuant to] under this chapter and such administrative rules as the director may adopt. If service by mail or by personal delivery fails, the director [shall] must provide service by posting the notice of violation and order in a conspicuous place on the property where the violation is occurring or occurred, or at the last known address of the violator, or by publishing a notice at least once per week for two consecutive weeks in a newspaper of general circulation in Maui County.

A. Contents of the notice of violation. The notice [shall] must include [at least] the following information:

1. Date of the notice.
2. The name and address of the person noticed.
3. The section number of the provision or rule, or the number of the permit that has been violated.
4. The nature of the violation.
5. The location and date of the violation.

B. Contents of the order.

1. The order [shall] may require the person to do one or more of the following:

- a. Cease and desist from the violation.
- b. Correct the violation at the person's own expense before a date specified in the order.
- c. Pay a civil fine not to exceed \$1,000 in the manner, at the place, and before the date specified in the order, except that the initial civil fine [shall] must not exceed \$20,000 for the operation of a bed and breakfast home, short-term rental home, transient vacation rental, or other transient accommodation, without a permit that is required for the operation, unless a higher fine is authorized by State law.
- d. Pay a civil fine not to exceed \$1,000 per day for each day in which the violation persists, in the manner and at the time and place specified in the order, except that the daily civil fine [shall] must not exceed \$10,000 for the operation of a bed and breakfast home, short-term rental home, transient vacation rental, or other transient accommodation, without a permit that is required for the operation, unless a higher fine is authorized by State law.

e. Pay a civil fine not to exceed [1] one percent of the project cost as provided in subsection [20.08.260(E)2 of this code.] 20.08.260(E)(2).

2. The order [shall] will advise the person that the order [shall become] becomes final unless an appeal is filed with the board of variances and appeals within [thirty] 30 days after the date of its mailing or delivery.

C. Effects of order; right to appeal. The provisions of the order issued by the director of public works, the director of environmental management, the director of water supply, or the planning director under this section [shall] will become final unless an appeal is filed with the board of variances and appeals within the [thirty-] 30 day period. However, an appeal to the board of variances and appeals [shall] may not stay any provision of the order.

D. Collection of unpaid civil fines. In addition to any other procedures for the collection of civil fines available to the [county] County by law or rules of the court, the [county] County may add unpaid civil fines as [herein] here defined to any [county] County taxes, fees or charges except for residential water or sewer charges.

E. Judicial enforcement of order. The director of public works, the director of environmental management, the director of water supply, or the planning director may institute a civil action in any court of competent jurisdiction for the enforcement of any order issued [pursuant to] under this section. Where the civil action has been instituted to enforce the civil fine imposed by said order, the director or agency need only show: that the notice of violation and order were 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 7. Chapter 14.06A, Maui County Code, is repealed.

SECTION 8. 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 9. This ordinance takes effect upon its approval.

APPROVED AS TO FORM
AND LEGALITY:

A handwritten signature in black ink, appearing to read 'Caleb P. Rowe', is written over a horizontal line.

CALEB P. ROWE

Department of the Corporation Counsel

County of Maui

LF 2024-1633

2025-09-18 Conservation Ordinance