

# REQUEST FOR LEGAL SERVICES

**D a t e:** December 6, 2024  
**F r o m:** Tom Cook, Chair  
Water and Infrastructure Committee

TRANSMITTAL

**Memo to:** DEPARTMENT OF THE CORPORATION COUNSEL  
Attention: Caleb P. Rowe, Esq.

**Subject:** BILL 180 (2024), AMENDING TITLES 14 AND 16, MAUI COUNTY CODE, RELATING TO PRIVATE WATER CATCHMENT SYSTEMS (WAI-34)

**Background Data:** Please see CD1 version of bill. Please submit your response to wai.committee@mauicounty.us with a reference to WAI-34.

**Work Requested:**  FOR APPROVAL AS TO FORM AND LEGALITY  
 OTHER:

Requestor's signature  Tom Cook, Chair	Contact Person <u>Jarret Pascual or Carla Nakata</u> (Telephone Extension: <u>7141 or 5519, respectively</u> )
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ROUTINE (WITHIN 15 WORKING DAYS)       RUSH (WITHIN 5 WORKING DAYS)  
 PRIORITY (WITHIN 10 WORKING DAYS)       URGENT (WITHIN 3 WORKING DAYS)

SPECIFY DUE DATE (IF IMPOSED BY SPECIFIC CIRCUMSTANCES): December 12, 2024  
REASON: For posting on the December 23, 2024, Council meeting agenda.

## FOR CORPORATION COUNSEL'S RESPONSE

ASSIGNED TO:	ASSIGNMENT NO.	BY:
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TO REQUESTOR:  APPROVED  DISAPPROVED  OTHER (SEE COMMENTS BELOW)  
 RETURNING--PLEASE EXPAND AND PROVIDE DETAILS REGARDING ITEMS AS NOTED

COMMENTS (NOTE - THIS SECTION NOT TO BE USED FOR LEGAL ADVICE): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DEPARTMENT OF THE CORPORATION COUNSEL

Date \_\_\_\_\_

By \_\_\_\_\_

(Rev. 7/03)

wai:ltr:034acc01:jpp

Attachment

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

BILL NO. 180, CD1 (2024)

A BILL FOR AN ORDINANCE AMENDING TITLES 14 AND 16, MAUI COUNTY CODE, RELATING TO PRIVATE WATER CATCHMENT SYSTEMS

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

SECTION 1. This Ordinance's purpose is to allow for the use of private water catchment collection and storage tank systems of up to 30,000 gallons in the Agricultural, Residential, and Rural Districts. The General Plan prioritizes the use of efficient water system elements, such as water catchment; encourages increased education on the use of private catchment systems for non-potable uses; and supports the use of catchment systems in rural areas. This Ordinance is intended to advance those policies.

SECTION 2. Chapter 14.01, Maui County Code, is amended by adding a new section to read as follows:

**“14.01.080. Private water catchment systems; no County liability. The County will not be responsible for monitoring the safety or quality of the water in a private water catchment system.”**

SECTION 3. Section 14.01.040, Maui County Code, is amended by adding a new definition to be appropriately inserted and to read as follows:

**“Private water catchment system” means a water collection and storage tank system of up to 30,000 gallons that is owned and operated by a private entity and has no connection to the public water system.**

SECTION 4. Section 14.04.010, Maui County Code, is amended to read as follows:

**“14.04.010 General conditions.** A. Any prospective consumer whose premises are within service limits established by the department and adjacent to a distributing main, where pressure conditions permit, may obtain water service[; provided, that] if the department has a sufficient water supply developed for domestic, irrigation, and fire protection purposes to take on new or additional service without detriment to those already served, and the consumer agrees to abide by [the provisions of this chapter.] this chapter’s provisions.

B. Where an extension of mains is necessary, where large quantities of water are required, or where a substantial investment by the department is necessary to provide service, the consumer will be informed by the department [as to] of any special conditions [and/or] or additional charges to be imposed for the service[, such that water can] of enabling water to be delivered in adequate quantities and pressures for domestic and irrigation use under peak conditions, and for adequate fire protection.

C. Applicants for water service for premises where improvements to the department's water system have not been installed [pursuant to the requirements of Chapter 14.05 of this code, shall] under chapter 14.05’s requirements must install and pay for the required storage tanks, appurtenances, and pipeline improvements from the storage tank to the applicant's premises in accordance with [Chapter] chapter 14.05 [of this code].

D. All water supplied by the department will be measured by means of suitable meters registering in gallons. When it is impractical to meter any service, a flat rate may be charged. The amount to be charged for water service [shall] will be in accordance with the rates established in the County's annual budget[.] ordinance. The department will determine the location and size of all meters and service connections to its systems. All service connections [shall] become the property of the department for operation and maintenance after installation, and new connections or disconnections may be made [thereto] by the department at any time.

E. Private water catchment systems are only allowed in agricultural, residential, and rural zoned districts and are exempt from this chapter’s requirements.”

SECTION 5. Section 14.05.020, Maui County Code, is amended to read as follows:

**“14.05.020 Reservoirs/storage tanks.** A. Subdividers [shall] must install storage tanks, appurtenances, and pipelines from the tank site to the subdivision proper in accordance with the department's standards or as otherwise approved by the director. Storage tanks with a capacity of [one hundred thousand] 100,000 gallons or more [shall] must be of concrete construction. Storage tanks with a capacity of less than [one hundred thousand] 100,000 gallons may be of steel, concrete, or other material as approved by the director.

1. For residential, hotel, apartment, business, industrial, airport, and commercial districts. Unless otherwise approved by the director, storage capacity required [shall] must be determined on the basis of fire flow duration, maximum daily flow, or [one thousand] 1,000 gallons per lot, whichever [quantities] quantity or basis is [greater.] greatest.

2. For rural and agricultural districts. Storage capacity required [shall] must be determined on the basis of [one thousand] 1,000 gallons per lot for rural districts and [two thousand] 2,000 gallons per lot for agricultural districts.

B. Tank site lots, access roads, and pipeline easements [shall] must be offered to the County for dedication [prior to] before the department's recommendation for final subdivision approval.

C. Whenever a subdivider is required by the department to install a reservoir or storage tank, together with appurtenances of greater capacity than is required to serve the subdivider's subdivision, the department [shall] will make a lump sum reimbursement to the subdivider of the difference in cost, excluding the cost of appurtenances, of [such] the larger reservoir or storage tank and the reservoir or storage tank that would otherwise have been required; [provided,] except, however, that no reimbursement [shall] may be made where [such] the larger reservoir or storage tank [shall serve] serves only areas of land under the same ownership as the subdivision in question.

D. Where it is determined by the director that a subdivision does not require new, separate storage facilities, and that existing storage facilities and capacity are available, the subdivider [shall] will be assessed storage assessment fees in an amount [as provided for in the rates and fees of the department as] established in the County's annual budget[.] ordinance.

E. Storage assessment [funds] fees may be used for any costs related to public reservoir or storage tank [related] construction or maintenance within the County.”

SECTION 6. Section 16.25.105, Maui County Code, is amended by amending subsection 105.2 to read as follows:

**“105.2 Work exempt from permit.** Exemptions from permit requirements of this code will not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Building permits will not be required for the following:

1. One-story detached accessory structures not greater than 120 square feet in gross floor area, not used as a habitable space, storage of motor vehicles or hazardous materials, and does not block egress.

2. One-story detached agricultural buildings 200 square feet or less in gross floor area within the county agricultural and rural districts having a minimum 10 feet clear unobstructed space from other structures.

3. Detached shade cloth structures not exceeding 20,000 square feet for nursery or agricultural purposes within the county agricultural districts having a minimum building separation of 15 feet from other structures, not including service systems.

4. Water tanks supported directly on grade if the capacity does not exceed:

a. 5,000 gallons and the ratio of height to diameter or width does not exceed 2:1.

b. [15,000] 30,000 gallons and the ratio of height to diameter or width does not exceed 1:2.

5. Detached unroofed decks 30 inches or less measured from adjacent grade to the deck floor.

6. Underground tanks, utility vaults, individual wastewater systems, and similar structures not below an occupiable building.

7. Prefabricated swimming pools accessory to a Group R-3 occupancy in which the pool walls are entirely above the adjacent grade and do not exceed 5,000 gallons.

8. Reroofing (roof replacement and roof recover) of Group R-3 one- and two-family dwellings and Group U occupancies accessory to these dwellings where the structural components are not adversely affected.

9. Television and radio antennas and solar panels attached to roofs.

10. Window awnings in Group R-3 and Group U occupancies supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support and comply with fire separation distance requirements of this code or the International Residential Code.

11. Painting, papering, tiling, carpeting, cabinets, countertops, installation of shelves, and similar finish work.

12. Nonfixed and movable fixtures, cases, racks, counters, and partitions not over 5 feet 9 inches (1753 mm) in height.

13. Replacement of electrical, plumbing, and mechanical systems, not including commercial kitchen hood and ventilation systems, fire and standpipe systems, and other systems affecting fire resistive elements or assemblies or systems, and equipment requiring structural reinforcement.

14. Fences and walls not over 7 feet (2133.6 mm) high when measured from the lowest grade to the top of the fence or wall; and fences, as defined in section 19.04.040, not over ten feet high when measured from the lowest grade to the top of the fence, and when used for the purpose of protecting agricultural operations, conservation areas, cultural sites, and public roadways from axis deer. The height of fences and walls must be measured separately from retaining walls when the fence or wall foundation is separate from the retaining wall structure.

15. Retaining walls which do not have more than 3 feet of retainage between the finish grade on each side of the wall and not greater than 7 feet in total height measured from the lowest grade to the top of the wall, unless supporting a slope steeper than 3 (horizontal) to 1 (vertical) or another retaining wall within a distance of twice the height of retainage.

16. Drainage structures.

17. Site work on property, including sidewalks, curbs, parking lots, driveways, planter boxes, and water features less than 24 inches (610 mm) in depth and other landscaping structures as determined by the building official.

18. Recreational and public safety structures, including swings, merry-go-rounds, slides, jungle gyms, goals, lifeguard stands and towers, and other recreational structures as determined by the building official.

19. Street light standards, utility poles, not including wireless telecommunication towers, or television antennas (dishes) over 7 feet in overall height.

20. Temporary construction tool sheds, fences, and jobsite offices on the same property where construction is occurring under a valid building, plumbing, electrical, grading permit, or approved by the building official. These temporary structures must be removed promptly after work has been completed or deemed complete by the building official.

21. Construction equipment used for work authorized by a valid permit or for work exempted from permit

requirements.

22. Temporary tents or other coverings for private family parties or camping.

23. Temporary tents or coverings for uses other than private family parties or camping, up to a duration of 10 days.

24. Temporary motion picture, television and theater stage sets and scenery, and temporary exhibits and other related structures as approved by the building official.

25. Repairs which involve only the replacement of component parts of existing permitted work with similar materials for the purpose of maintenance and do not cost over \$15,000, per structure in any 12-month period.

26. Work performed for any federal or State of Hawai'i governmental agency except where permits are specifically requested by the agency.

27. Work by an electric or telecommunication utility operating under a franchise or charter granted by the State of Hawai'i, provided that the work which is not regulated by the Public Utilities Commission of the State of Hawai'i will be subject to the provisions of this code. If the utility claims an exemption under this provision, the utility has the burden of demonstrating to the satisfaction of the building official that the work is regulated by the Public Utilities Commission.

28. Motor vehicles and trailers with a valid certificate of registration from the Division of Motor Vehicles and Licensing. Land use requirements enforced by the Department of Planning, and fire and life safety requirements enforced by the Fire Prevention Bureau must be complied with.

29. Shipping containers within the county industrial zoning districts that are unaltered if:

a. The shipping containers are used only for storage, except the storage of motor vehicles, hazardous materials, or personal property;

b. The shipping containers are not used for habitation;

c. A ten-foot minimum clearance is maintained between the shipping containers and other structures, and the shipping containers are not stacked or placed within any lot's setback; and

d. Before placing the shipping container on the property, the property owner provides the department with a declaration, in a form prescribed by the department, stating the size, type, and location of the shipping container, along with a diagram showing the container's location on the property."

SECTION 7. 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 8. This Ordinance takes effect on approval.

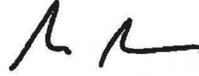
APPROVED AS TO FORM AND LEGALITY:

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Department of the Corporation Counsel  
County of Maui

wai:misc:034abill01:jpp

INTRODUCED BY:



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GABE JOHNSON