

ORDINANCE NO. _____

BILL NO. 129 (2023)

A BILL FOR AN ORDINANCE AMENDING SECTIONS 14.04.040, 14.07.080 AND 14.10.010, MAUI COUNTY CODE, TO ESTABLISH NEW WATER RATES, AND ALLOW FOR WAIVER OF THE WATER SYSTEM DEVELOPMENT FEE AND WATER SERVICE INSTALLATION FEES DURING EMERGENCIES

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

SECTION 1. This Ordinance's purpose is to allow the Department of Water Supply to help customers that have been impacted by a disaster or emergency by offering reduced rates for water for impacted customers, and by allowing the Director of Water Supply to waive the water system development fee and water service installation costs where water infrastructure has been destroyed or otherwise rendered non-operational by an emergency or disaster.

SECTION 2. Section 14.04.040, Maui County Code, is amended to read as follows:

"14.04.040 Water service – Installation. A. Installation. When an application for water service has been approved, [such] water service will be installed as agreed upon between the department and applicant at the expense of the applicant, and [thereafter] will be maintained by the department at its expense. There [shall] will be one meter for each service, unless the department, because of operating necessity, installs two or more meters in parallel. All meters will be sealed by the department before installation, and no seal [shall] will be altered or broken except by authorized departmental employees.

B. Deposit. A deposit equal to the department's estimate of the cost of the service lateral and meter installation will be required of the applicant before the water service connection is installed. If the actual cost of [such] the connection is in excess of the deposit, the applicant will be billed and [shall] will pay for the difference. If the actual cost is less than the deposit, the applicant will be refunded the difference. Installation cost [shall] will be based

on the cost of installation as established in the County's annual budget. In the event a meter box larger than the standard household type is required, the consumer [shall] will be responsible for the construction of the meter box [in accordance with] following the department's standards.

C. Consumer's Supply Pipe. The consumer [shall] will install at the consumer's expense and [shall] will connect to the department's facilities that portion of the water system for the consumer's property including backflow protection devices that are situated on the consumer's side of the shutoff valve, and [such] that portion of the water system [shall,] will, at all times, remain the sole property of the consumer, who [shall] will be responsible for its maintenance, repair, [and/or] and replacement. If the consumer's supply pipe is installed to the intended and agreed location of the meter, the department may make the connection to it when setting the meter.

D. Connection to Main. Only employees of the department will be allowed to connect or disconnect the water service to or from the department's main.

E. Compensation. Employees of the department are strictly forbidden to demand or accept personal compensation for services rendered.

F. Pipe Through Basement Wall. Where the consumer requires the consumer's supply pipe be extended through a basement wall, the consumer [shall] will provide the entranceway through [such] the wall. The department will not be responsible for any damage caused by leakage through or inside [such] the entranceway.

G. Location of Service Lateral, Water Meter, or Main. No service lateral or water main will be installed by the department in any private road, land, street, alley, court or place, until [such] those private streets or roadways are open to the public and [such] the rights-of-way have been duly conveyed to the county or the county is conveyed proper easements for the main or service lateral. Otherwise, a consumer desiring water service to property fronting [such] private roads, land, etc., must extend the consumer's supply pipe to the nearest public street on which a main exists. All meters [shall] will be installed along the property boundary, unless due to operating necessity or other extenuating situations, the department approves installation of the meter elsewhere. Consumers are prohibited from using the valve or stopcock before the meter.

H. Change in Location or Size of Service Connection. When the proper size of service connection for any premises has been determined and the installation has been made by the department at the location specified by the consumer, the department has fulfilled its obligations insofar as the size of the service and the

location [thereof] are concerned. If [thereafter] the consumer desires a change in size of the service connection or a change in the location [thereof], the consumer [shall] will bear all costs of [such] the change.

I. Shutoff Valve. A readily accessible shutoff valve controlling all outlets will be installed by the department at the expense of the consumer on the consumer's supply pipe at a location to be determined by the department. If a replacement of the shutoff valve is necessary, it [shall] will be installed by the department and paid for by the consumer.

J. Check Valve. A check valve [shall] will be installed by the department after the shutoff valve and paid for by the consumer. The consumer [shall] will test, inspect and make necessary repairs and replacements at the consumer's expense to keep the check valve in good working condition. The department [shall] will have access to make periodic inspection of [such] the devices.

K. Alteration to Public Water System. All work and materials in connection with the change in location or elevation of any part of the existing public water system made necessary by a new water service [shall] will be at the cost and expense of the new consumer.

L. Contours or Elevations. When required by the department, contours or elevations [shall] will be furnished by the applicant based on U.S. Coast and Geodetic Survey or county information [and/or] and data.

M. The director has discretion to waive any of the costs associated with water service installation as set forth in this section for properties in which water infrastructure was destroyed or otherwise rendered non-operational as a result of a disaster or emergency as defined in section 127A-2, Hawaii Revised Statutes, and resulting in a proclamation of a state of emergency or local state of emergency under section 127A-14, Hawaii Revised Statutes."

SECTION 3. Section 14.07.080, Maui County Code, is amended to read as follows:

"14.07.080 Exemptions[.]; waiver. A. Any applicant for a building permit for an accessory dwelling [shall] will pay one half of the water system development fee for the size meter required to be installed.

If the accessory dwelling is later subdivided from the premises, the applicant for subdivision [shall] will pay the balance of the water system development fee in effect at the time of subdivision upon proof of the initial one-half payment and, upon the director's request, [shall] will be required to relocate the meter.

B. Any applicant for a building permit for any structure [shall] may be exempted from paying the water system development fee, upon proof presented, that the structure or the premises on which the structure is located does not require water service or additional water service from the department's system, or that the applicant or the applicant's predecessor in interest had already paid the required water system development fee.

C. Any temporary meter [shall] will be exempt from the water system development fee.

D. Any application for water service within thirty-six months after removal [pursuant to] following the procedures [set forth] established in this title [shall] will be exempt from the water system development fee.

E. In addition to the above, any applicant for a water meter may be exempt from paying the full amount of the water system development fee if [specifically] set forth in the annual budget.

F. The director has discretion to waive the water system development fee for properties in which a water meter was destroyed or otherwise rendered non-operational as a result of a disaster or emergency as defined in section 127A-2, Hawaii Revised Statutes, and resulting in a proclamation of a state of emergency or local state of emergency under section 127A-14, Hawaii Revised Statutes."

SECTION 4. Section 14.10.010, Maui County Code, is amended to read as follows:

"14.10.010 Water Service Rates. A. Water rates for agricultural, nonpotable agricultural, nondwelling agricultural, emergency water, temporary irrigation, and general consumers, must be set forth in the annual budget ordinance.

B. Agricultural consumers may qualify for agricultural water rates. Each consumer requesting an agricultural rate for water service [shall] must submit an annual written application to the department attaching the following documentation, if applicable, regarding their product or service:

1. A copy of the consumer's filed State of Hawaii, [Department of Taxation, General Excise, Use Tax Return, Form] department of taxation, general excise, use tax return, form G-45, for the period preceding the date of application[;].

2. A copy of the consumer's filed Internal Revenue Service, [Profit or Loss From Farming Schedule] profit or loss from farming schedule F[; and].

3. A description of the commercial agricultural operation that includes:

a. The type of commercial operation[;].

- b. The anticipated monthly water usage[;].
- c. The age of the crop or stock, if applicable[;].
- d. A five-year timeline of projected annual gross income[; and].
- e. A site plan demarcating the commercial agricultural operation, landscaping, grassy areas, dwellings and other structures, and irrigation system.

C. Emergency water consumers may qualify for emergency water rates where water that would otherwise be delivered as potable water has been determined by the director to be within a designated unsafe water advisory area as a result of a disaster or emergency as defined in section 127A-2, Hawaii Revised Statutes, and resulting in a proclamation of a state of emergency or local state of emergency under section 127A-14, Hawaii Revised Statutes. Emergency water rates will only be available to customers whose property has been determined by the director to be within the unsafe water advisory area.

D. Temporary irrigation consumers may qualify for temporary irrigation rates where a consumer's home was destroyed, and water service temporarily canceled, as a result of a disaster or emergency as defined in section 127A-2, Hawaii Revised Statutes, and resulting in a proclamation of a state of emergency or local state of emergency under section 127A-14, Hawaii Revised Statutes. To qualify for this rate, water must be nonpotable and used for maintenance of residential landscaping, including lawns, crops, and gardens as applicable.

[C.] E. General or agricultural water service will not be allowed from a meter for which the nonpotable agricultural rate is approved.

[D.] F. The penalty for using nonpotable agriculture water service to supply general uses is removal of the meter.

[E.] G. The penalty for providing water service to lots other than the lot to which the service is assigned is removal of the meter.


[F.] H. Water service requests by property lessees or licensees may be granted:

- 1. If requested and guaranteed by the fee simple owner of the property; or
- 2. A lump sum payment equal to a [two billing] two-billing period estimate must be deposited with the department as collateral for future billings."

SECTION 5. 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 6. This Ordinance, upon its approval, takes effect retroactive to August 8, 2023.

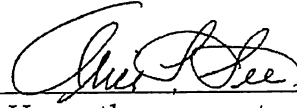
APPROVED AS TO FORM AND LEGALITY:

A handwritten signature in black ink, appearing to read "Caleb P. Rowe", is positioned above a horizontal line.

CALEB P. ROWE
Department of the Corporation Counsel
County of Maui

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2023-11-06 Ord Amd Ch 14.07 & 14.10.docx

INTRODUCED BY:

A handwritten signature in cursive script, appearing to read "Chris R. Lee", is written over a horizontal line.

Upon the request of the Mayor.

DIGEST

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This bill proposes to offer reduced rates for water for impacted customers and allows the Director to waive the water system development fee and water service installation costs.

I, MOANA M. LUTEY, County Clerk of the County of Maui, State of Hawaii, DO HEREBY CERTIFY that the foregoing BILL NO. 129 (2023) was passed on First Reading by the Council of the County of Maui, State of Hawaii, on the 1st day of December, 2023, by the following vote:

AYES: Councilmembers Tom Cook, Gabriel Johnson, Natalie A. Kama, Tamara A. M. Paltin, Keani N. W. Rawlins-Fernandez, Shane M. Sinenci, Nohelani U'u-Hodgins, Vice-Chair Yuki Lei K. Sugimura, and Chair Alice L. Lee.

NOES: None.

DATED at Wailuku, Maui, Hawaii, this 4th of December, 2023.



MOANA M. LUTEY, COUNTY CLERK
COUNTY OF MAUI, STATE OF HAWAII

Copies of the foregoing Bill, in full, are on file in the Office of the County Clerk, County of Maui, for use and examination by the public.