

## Chapter 14.12 - WATER AVAILABILITY

**Sections:**

## 14.12.010 - Title and purpose.

This chapter shall be known as the County's "water availability policy". The council acknowledges and affirms that water is a natural and cultural resource that must be protected, preserved, and managed as a public trust, and hereby establishes a policy that requires verification of a long-term, reliable supply of water before applicable subdivisions are approved.

(Ord. No. 3934, § 2, 2012; Ord. 3502 § 2 (part), 2007)

## 14.12.020 - Applicability and scope.

This chapter shall apply to all subdivisions, including subdivisions bonded pursuant to sections 18.20.190, 18.20.200, and 18.20.210 of this code, unless exempted under section 14.12.030.

(Ord. No. 3934, § 2, 2012; Ord. 3502 § 2 (part), 2007)

## 14.12.030 - Exemptions.

This chapter shall not apply to:

- A. Building permits as described in chapter 18.28 of this code, or other ministerial construction permits that do not require new or additional water services;
- B. Subdivisions that do not require water service, such as, but not limited to, family subdivisions as defined in section 18.20.280 of this code, consolidations and concurrent re-subdivisions that do not create additional developable lots, road widening lots, utility lots, or easements for access or utility purposes;
- C. Subdivisions that will not be regulated as a public water system pursuant to department of health rules, provided that this exemption shall not apply to any subsequent subdivision of any of the resulting parcels;
- D. Infill development, provided that this exemption shall not apply to any subsequent development or subdivision of any resulting parcels;
- E. Residential workforce housing units developed by a qualified housing provider pursuant to chapter 2.96 of this code, and are within the service area of the department's central or west Maui water system;
- F. Residential development projects with one hundred percent affordable housing units and are within the service area of the department's central or west Maui water system; or
- G. Public or quasi-public development projects as defined in section 19.04.040 of this code and related subdivisions that are within the service area of the department's central or west Maui water system.

(Ord. No. 4158, § 2, 2014; Ord. No. 3934, § 2, 2012; Ord. No. 3818, § 1, 2011; Ord. 3502 § 2 (part), 2007)

## 14.12.040 - Written verification of long-term, reliable supply of water.

- A. No applicable subdivision shall be approved, unless prior to approval of subdivision construction plans pursuant to section 18.20.180 of this code, the director has provided written verification of either: (1) a County water meter or water meter reservation; or (2) the receipt of an approved engineering report for a long-term, reliable supply of water for the subdivision.
- B. Written verification of a long-term, reliable supply of water shall not constitute an assurance, covenant, or warranty by the County of water source from a private, non-County system.

(Ord. No. 3934, § 2, 2012; Ord. 3502 § 2 (part), 2007)

## 14.12.050 - Director's comments on engineering reports.

The director shall review and comment on engineering reports during the department of health's inter-agency review period. In reviewing and commenting on an engineering report, the director shall consider any of the following applicable factors:

- A. The adverse impacts on the water needs of residents currently being served and projected to be served by the department;
- B. The adverse impacts to the water needs of residents currently on a County "wait list" for water meters;
- C. The cumulative impacts;

(Committee Chair Basis)

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- D. The commission's water resources protection plan;
- E. The plan;
- F. The general plan and relevant community plans;
- G. The adverse impacts on surrounding aquifers and stream systems, including:
  - 1. Water levels;
  - 2. Water quality, including salinity levels;
  - 3. The discharge of water into springs and nearshore marine areas;
  - 4. Surface water-groundwater interactions; and
  - 5. Adverse impacts on other existing, future, or planned wells;
- H. The adverse impacts on Department of Hawaiian Home Lands' current reservations or projected future uses;
- I. The adverse impacts on environmental resources that are rare or unique to the region and the project site (including natural, cultural, or human-made resources of historic, archaeological, or aesthetic significance);
- J. The adverse impacts on the exercise of traditional and customary Native Hawaiian rights and practices;
- K. United States Geological Survey studies;
- L. Whether the applicant is in full compliance with the State water code and County's water reporting laws;
- M. Whether the affected water source, including groundwater, surface water, or other source of water will exceed:
  - 1. Ninety per cent of the sustainable yield;
  - 2. Instream flow standards; or
  - 3. Interim instream flow standards;
- N. The allocation of water set forth in this code; and
- O. The adverse impacts to the water quality of any water body identified as impaired under section 303(d) of the Clean Water Act.

(Ord. No. 3934, § 2, 2012; Ord. 3502 § 2 (part), 2007)

14.12.060 - Expiration.

- A. Written verification of a long-term, reliable supply of water shall expire, and be deemed null and void, unless extended by the director for good cause, if:
  - 1. For groundwater source, the director has not received a well completion report from the commission within two years from the date of verification; provided that, the director may, for good cause, authorize up to two time extensions of up to six months each; and further provided that, any request for an extension of time shall be received by the director at least thirty days before the associated expiration date;
  - 2. For surface water source, the director has not received a written approval for use from the department of health within two years from the date of verification; provided that, the director may, for good cause, authorize up to two time extensions of up to six months each; and provided further that, any request for an extension of time shall be received by the director at least thirty days before the associated expiration date; or
  - 3. For County water meter reservation, if the water meters covered under the reservation have not been installed in accordance with the terms, conditions, provisions, and time limitations of the meter reservation policies of the department.
- B. If written verification of a long-term, reliable supply of water expires, a new, updated verification pursuant to section 14.12.040 must be issued before construction can resume.

(Ord. No. 3934, § 2, 2012; Ord. 3502 § 2 (part), 2007)

14.12.070 - Review.

- A. The council shall review this chapter beginning July 1, 2014, and every two years thereafter.
- B. As part of the review, the director, in consultation with other departments, shall provide a report to the council on the status of this chapter and shall include the following in the report:
  - 1. The number of dwelling units approved with private water source improvements;
  - 2. The number of dwelling units approved with county water meters;
  - 3. The number of affordable units developed and exempted from this chapter;
  - 4. The number of residential workforce housing units developed and exempted from this chapter;

5. The number of infill dwelling units developed and exempted from this chapter; and
  6. The effect, if any, of developments constructed pursuant to this chapter on native Hawaiian kuleana rights.
- (Ord. No. 3934, § 2, 2012)