

Establishing Water Advisory Committees

LWAC DISCUSSION DRAFT

A BILL FOR AN ORDINANCE
TO ESTABLISH COMMUNITY PARTICIPATION
IN THE FORM OF WATER ADVISORY COMMITTEES
FOR DEVELOPMENT AND REVIEW OF
WATER USE AND DEVELOPMENT PLANS

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

Chapter 2.88 A of the Maui County Code is amended as follows:

I. Section 2.88A.010 Sections:

Section 2.88A.010 is amended to include definitions provided herein. Section 2.88A.020 is amended to include language provided herein. A new section 2.88A.030 is added, and the current Sections 2.88A.030 through 2.88A.050 are re-numbered as Sections 2.88A.040 through 2.88A.060. A new Section 2.88A.070 is added. The Sections of the amended Chapter are as follows:

Sections:

Section 2.88A.010	Definitions
Section 2.88A.020	Purpose & Intent
Section 2.88A.030	Water Advisory Committees
Section 2.88A.050	Adoption of the Plan
Section 2.88A.060	Application of the Plan
Section 2.88A.070	Amendment
Section 2.88A.080	Severability

II. Section 2.88A.020 Definitions:

For purposes of this chapter, unless it is plainly evident from the context that a different meaning is intended, certain terms and words are defined as follows:

“Board” means the board of water supply of the county of Maui
“Commission” means the commission on water resource management of the State of Hawaii
“Council” means the council of the county of Maui
“County” means the County of Maui, a political subdivision of the State of Hawaii
“Department” means the Department of Water Supply of the County of Maui
“Director” means the director of water supply of the county of Maui
“DWS” means the Department of Water Supply of the County of Maui
“Plan” means the water use and development plan for the County of Maui, comprised of the technical report and executive summary.
“State Water Code” means chapter 174C, Hawaii Revised Statutes. (Ord 1948 §2, 1990)

A new definition is hereby added:

"Water Planning Districts" means areas served by a common mix of sources, connected such that sources are shared, or a distinct region or area served by small separate systems. They are defined as the following broad service areas, and shall include both DWS and non-DWS facilities:

1) Central Maui

Including but not limited to the area along the north from Waihee to Kuau, across the central isthmus, and along the south from Maalaea to Makena

2) Upcountry

Including but not limited to the current system areas known as Upper Kula, (incl. Ulu-palakua-Kanaio), Lower Kula, and Makawao (incl. Pukalani through Makawao and Haiku to Ulumalu).

3) Lahaina

Including but not limited to the current system areas known as Honokohau, Mahinahina/Alaeloa, and Lahaina

4) Hana

Including but not limited to Kailua, Keanae, Nahiku, Hana and Kaupo

5) Molokai

Including the entire island of Molokai

6) Lanai

Including the entire island of Lanai

III. Section 2.88A.020 Purpose and Intent

Section 2.88A.020 is hereby amended as follows.

The purpose of the plan is to meet the mandate of the state water code relative to statewide water resources planning, more specifically to aid the commission and the county of Maui in the conservation, development and use of the water resources of the county. (Ord. 1948 §2, 1990)

The intent of this ordinance is to insure effective community participation in Water Use & Development Planning, and to acknowledge the direction taken by the State in publishing its Framework for Updating the Hawaii Water Plan to involve the public in planning & decision making and to practice integrated resources planning.

IV. Section 2.88A.030 Water Advisory Committees

Section 2.88A.030 is hereby added

2.88A.030 Water Advisory Committees

- A. A Water Advisory Committee shall be established in each Water Planning District.
- B. Water Advisory Committees shall be composed of residents, purveyors and resource managers in the district served by the committee. In addition, at least one member of the Water Advisory Committee may be a Planning Commission representative for that district, (provided that person is willing to serve) and at least one shall be a County Council members serving the affected region, or that person's appointed representative
- C. The membership of Each Water Advisory Committee shall be proposed by the Director, with review by the Board, and approval by the Mayor.
- D. In recruiting and selecting members for each Water Advisory Committee, The Department shall follow the principles in the Statewide Framework For Updating the Hawaii Water Plan, striving to be inclusive of stakeholders and achieve balanced participation.
- E. If deemed advisable by the Department and Mayor, a substantial and balanced mailing list may substitute for a defined number of committee participants, provided that the mailing list is greater than 25 people, the opportunity to participate is advertised for at least a month, and the Mayor and Council have opportunity to contribute to the mailing list.
- F. To allow for flexibility and recognition of the unique character of each district, various particulars of the committees, including but not limited to composition, membership, terms, meeting schedule, sunset, functions and other items described in 2.88A.030 D through J, contained herein, will be defined by the Director as specified in attachments for each district. These attachments are hereby incorporated into this rule, may be revised by the Director as needed to optimize implementation of the Water Use & Development Planning Functions without need for additional ordinance or rule-making proceedings.

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- G Each Water Advisory Committee shall meet at a schedule determined by the Director, to discuss and make recommendations for update and development of the Draft Water Use and Development Plan, or for review of plan status and implementation.
- H In the event that the Director finds it necessary, Water Advisory Committees may be asked to select representatives to meet with Water Advisory Committees of other regions, to work toward resolution of inter-regional disputes.
- I Upon completion of the Water Use and Development Plan the Water Advisory Committees may continue to meet to review status and implementation of the Water Use and Development Plan, as deemed advisable by the Director.
- J The purpose of the Water Advisory Committees pertains specifically to the process of drafting, reviewing, updating and monitoring the implementation of the Water Use & Development Plans, and the establishment of these committees does not supersede any existing powers of the Board, Administration, Planning Commission, Council or other agencies.
- K The Director may waive the provisions of this section to the extent that they prevent obtaining or granting of federal aid on any project or the prosecution of work thereunder.

2.88A.040 Adoption of the Plan

The council hereby adopts the plan, and any future revision, amendment or modification of the same, pursuant to section 2.88A.050 of this chapter, shall be deemed part of the plan without further adoption or amendment to this chapter and will be incorporated into this chapter by reference. (Ord. 1948 §2 1990)

2.88A.050 Application of the Plan

Section 2.88A.020 is hereby amended as follows.

The plan shall serve as a guideline to the council, the board and all other agencies or departments of the County (a) in approving or recommending to other agencies the use or commitment of the water resources in the County, ~~and~~ (b) in using public funds to develop water resources to meet existing or projected future demands on the public water systems as set forth in the plan, and (c) in establishing or recommending for consideration policies or protective measures for water resource management as appropriate to meet critical concerns of individual or collective water districts. (Ord. 1948 §2 1990)

2.88A.050 Amendment

Section 2.88A.020 is hereby amended as follows.

If a proposed community plan amendment will impact the plan, the director shall initiate any necessary plan amendments.

An amendment to the plan proposed by the council, the director or any agency shall be referred to the Department for its review and recommendation. The Department shall hold

appropriate public hearings on proposed revisions or amendments and shall transmit them, with its findings and recommendations to the council. Within forty-five days of receipt of a proposed amendment, the council shall approve the amendment by ordinance. If the council fails to act within forty-five days, the amendment shall be deemed disapproved.

~~The mayor shall appoint a nine member task force to be chaired by the director to assist the Department with the review and amendment of the plan whenever the planning director recommends the revisions to the general plan pursuant to section 8-8.3.3 of the revised charter of the county of Maui. The task force shall recommend to the Department amendments to the plan so as to be consistent with any community plan amendment. (Ord. 1948 §2, 1990)~~

The Water Advisory Committees shall be established and serve as described in Section 2.88A.040 above, and shall recommend updates or changes as necessary based on community plan amendments, status of water resources or other critical factors. The Water Advisory committees shall recommend to the Department amendments as necessary to be consistent with general and community plan amendments. (Ord. 1948 §2, 1990)(Ord. 1948 §2, 1990)

VIII.2.88A.070 Severability

Section 2.88A.070 is hereby added:

The invalidity of any word, section, clause, paragraph, sentence part, or provision of this chapter shall not affect the validity of any other part of this chapter which can be given effect without such invalid part or parts.

IX. Effective Date

This ordinance shall take effect upon its approval.

Attachment A

Water Use & Development Plan - Water Advisory Committee for Lana`i

I. Establishment of the Lana`i Water Advisory Committee.

There shall be a Lana`i Water Advisory Committee (LWAC).

II. Special Provisions:

A. Balance of Membership

Membership and representation on the Lana`i Water Advisory Committee shall be as follows:

Organization or Entity	Number of Representatives
Lana`i Company	2
Lana`ians for Sensible Growth	2
At Large Lana`i Residents	3
Member of Lana`i Planning Commission	1
Council Member Residing on Island	1
Lead Agency - Department of Water Supply Staff	1 Ex Officio
Advising Agency - Commission on Water Resources Management	1 Ex Officio
Advising Agency - Department of Land & Natural Resources	1 Ex Officio
Advising Agency - Maui County Planning Department	1 Ex Officio
Advising Agency - Maui County Department of Public Works & Environmental Management	1 Ex Officio

B. Meeting Frequency & Triggers for Calling a Meeting

The LWAC shall meet bimonthly during drafting and update of the Water Use and Development Plan, and quarterly thereafter. Additional meetings may be held on an as-needed basis, if one or more of the following conditions apply:

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- 1) DWS receives a development proposal for review for the island of Lana`i which is inconsistent with the Water Use and Development Plan.
 - 2) DWS receives a development proposal for review for the island of Lana`i which is anticipated to utilize more than 60,000 gpd, or which will cause pumpage to exceed designation triggers set by the Commission on Water Resource Management.
 - 3) DWS receives a development proposal for review which may cause pumpage to exceed operational guidelines.
 - 4) DWS receives a development proposal for review which involves a community plan amendment.
 - 5) Status of the aquifer or watershed has been altered, implementation of source water protection is in question, or monitoring shows that implementation is ineffective and discussion is deemed advisable.
 - 6) LWAC members or other supporting agencies request a meeting due to questions regarding implementation of Water Use and Development Plan measures, or status of water source & supply, or other unforeseen issues pertaining to the status of the water supply, or the drafting, implementation, and consistency of the Water Use and Development Plan with the Community Plan.

C. Coordination with Planning

If a proposed land use is heard by the planning department and or council, and if said land use could be contrary to the information in the Water Use and Development Plan, exceed consumption triggers based on standards for source and system viability as set by the Department, have potential for significant adverse affect on source or systems, or be contrary to any policy or resource protective measure contained in the plan, the Department may request to the Planning Department that the project be reviewed by the water advisory committee.

The Planning Director will determine whether such request for referral is to be granted. In the case of such referrals, the Planning Department, Planning Commission or Council shall consider the recommendations of the Water Advisory Committee for the record.

The results of these reviews shall be forwarded to the Director. The Director will in turn forward these recommendations to the Director of the Planning Department of the County of Maui.

The land use decision making body may over-ride the recommendations of the Department and Water Advisory Committee, except where this would conflict with the but should state the reason for such action on the record.

