

NOTICE OF PUBLICATION AND NOTICE OF PUBLIC HEARING

OFFICE OF THE COUNTY CLERK  
COUNTY OF KAUAI

Notice is hereby given that the Council of the County of Kaua'i will hold a public hearing on Wednesday, August 3, 2022, at 8:30 a.m., or soon thereafter, at the Council Chambers, 4396 Rice Street, Room 201, Historic County Building, Līhu'e, on the following:

Bill No. 2873

A BILL FOR AN ORDINANCE ADDING A NEW ARTICLE TO CHAPTER 15, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO BUILDING AND CONSTRUCTION REGULATIONS

This Bill proposes to amend Chapter 15 of the Kaua'i County Code 1987, as amended, by adding a new Article 5, that describes how permit holders may amend or otherwise keep their permits up to date with current information on the licensed contractors doing the work on projects. The purpose of this Bill is to ensure that the County is made aware of which contractors are working on permitted building projects, and to ensure that the County is timely made aware of violations and disciplinary actions that impact the County's role in enforcing the Building Code.

Bill No. 2874

A BILL FOR AN ORDINANCE AMENDING SECTIONS 25-11.1, 25-12.1, 25-13.4, AND 25-13.9 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO SEWERS

This Bill proposes to amend Chapter 25, Sections 25-11.1, 25-12.1, 25-13.4, and 25-13.9, Kaua'i County Code 1987, as amended, relating to Sewers, by adjusting the fees associated with sewers, as it has been eight (8) years since the last sewer fee adjustment. The rate increase is intended to implement much needed deferred maintenance and process improvement projects to control future costs, avoid expensive emergency repair, ensure compliance, protect the environment, and avoid consent decrees, and will help to increase operational efficiency and ensure reliable service to customers. In addition, the fees are intended to balance the contribution of General Fund moneys with a user payer structure.

All interested persons who wish to present their comments may do so at the public hearing. Written testimony prior to the hearing would be appreciated. Written testimony can be submitted to the Office of the County Clerk, Council Services Division by mail, facsimile, or via E-mail to [counciltestimony@kauai.gov](mailto:counciltestimony@kauai.gov). Copies of these Bills are available at the Office of the County Clerk, Council Services Division.

(The Council Committee or Council may amend these Bills at their subsequent meetings. Meeting notices are posted at least six (6) days in advance at the County Clerk's Office and the public may also testify at any of these meetings.)

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that the foregoing Bill No. 2873 and Bill No. 2874 were passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on July 6, 2022, by the following vote:

AYES:	Carvalho, Chock, Cowden, Evslin, Kualii, Kaneshiro	TOTAL – 6,
NOES:	DeCosta	TOTAL – 1,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Lihu'e, Hawai'i  
July 6, 2022

/s/ Jade K. Fountain-Tanigawa  
County Clerk, County of Kaua'i

NOTE: IF YOU NEED AN AUXILIARY AID/SERVICE, OTHER ACCOMMODATION DUE TO A DISABILITY, OR AN INTERPRETER FOR NON-ENGLISH SPEAKING PERSONS, PLEASE CONTACT THE OFFICE OF THE COUNTY CLERK, COUNCIL SERVICES DIVISION AT (808) 241-4188 OR COKCOUNCIL@KAUAI.GOV AS SOON AS POSSIBLE. REQUESTS MADE AS EARLY AS POSSIBLE WILL ALLOW ADEQUATE TIME TO FULFILL YOUR REQUEST.

UPON REQUEST, THIS NOTICE IS AVAILABLE IN ALTERNATE FORMATS SUCH AS LARGE PRINT, BRAILLE, OR ELECTRONIC COPY.

(One publication – The Garden Island – July 14, 2022)

**A BILL FOR AN ORDINANCE ADDING A NEW ARTICLE TO CHAPTER 15,  
KAUA'I COUNTY CODE 1987, AS AMENDED,  
RELATING TO BUILDING AND CONSTRUCTION REGULATIONS**

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BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUA'I, STATE OF HAWAII:

SECTION 1. Findings and Purpose. The Council finds that Chapter 15 of the Kaua'i County Code 1987, as amended, should have a section that describes how permit holders may amend or otherwise keep their permits up to date with current information on the licensed contractors doing the work on the project.

The Council also finds that requiring contractors working on permitted projects to disclose violations and disciplinary actions subsequent to the issuance of the permit will provide two benefits to the County.

First, the County may need to suspend a building permit if a contractor's license has been suspended or revoked. While the County can verify contractor's license status at the time of building permit application submittal, it may not have the ability to check the status of all contractors' licenses for all active building permits on an ongoing basis. A contractor may be performing work on multiple permitted projects, and the County may be unaware of that unless the contractor files a new permit application. The Council finds that requiring contractor disclosure will help the County's enforcement of valid permits.

Second, the disclosures required under this bill may contribute to a finding by the County that there is reasonable cause to inspect a building project for building code violations. The County has the power to inspect building projects to enforce the provisions of the Building Code or when it has reasonable cause to believe a condition in violation of the Building Code exists which makes the project unsafe, dangerous, or hazardous. Unsanctioned activity may be an indication that violations are present and worth an inspection by the County.

Timeliness is critical, as the County may be able to prevent violations of the building code and enforce remediation measures for a project by conducting a valid inspection sooner rather than later. The County is limited in its ability to regularly check for violations and disciplinary actions and then cross reference them with active contractors operating under permits on the island. The disclosure requirements will help the County gather information in the most expeditious way possible.

The purpose of this ordinance is to ensure that the County is made aware of which contractors are working on permitted building projects, and to ensure the County is timely made aware of violations and disciplinary actions that impact the County's role in ensuring the Building Code is followed.

SECTION 2. Chapter 15, Kaua'i County Code 1987, as amended, is hereby amended to add a new Article 5 to read as follows:

**"Article 5. Designation and Disclosure of Contractor Status**

**Sec. 15-5.1. Purpose.**

The purpose of this article is to ensure that the County is made aware of which contractors are working on permitted building projects, and to ensure the County is timely made aware of violations and disciplinary actions that impact the County's role in enforcing the Building Code.

**Sec. 15-5.2. Definitions.**

"Contractor" means a contractor as defined in Chapter 444, Hawai'i Revised Statutes.

"County Engineer" means the County Engineer, Department of Public Works of the County of Kaua'i.

"Disciplinary action" means any public disciplinary action taken by an administrative entity in response to a violation, any public settlement agreement made between an administrative entity and a person to resolve a claim of violation, any license suspension, or any license revocation.

"License" means a license obtained under and in compliance with Chapter 444, Hawai'i Revised Statutes.

"Permit" means a building permit issued under Chapter 12, Kaua'i County Code 1987, as amended.

"Person" means any individual, firm, partnership, association, or corporation; or its or their successors or assigns, according to the context thereof.

"Violation" means any administrative or judicial decision or finding of a violation of any law, ordinance, rule, or regulation relevant to a person's work as a contractor.

**Sec. 15-5.3. Designation of Person, Contractor, or Subcontractor Who Will Do Work.**

(a) As determined by the County Engineer, no permit issued shall authorize any person or contractor to work upon any phase of a building, structure, or project except as identified in the permit application including any attachment or amendments thereto, as the contractor or subcontractor designated to do that particular phase of work.

(b) No permit shall be loaned to another by the person to whom it was issued.

(c) If subsequent to the issuance of a permit, a homeowner either ceases to employ the owner-builder exemption and engages a contractor for any phase of work, or there is a change in the designation of any contractor for any phase of work, the permit holder shall file a written request to the County. The request shall include: the change in designation; a revised statement form for each contractor or subcontractor engaged to do work upon the building, structure, or project; and a non-refundable fee to be determined by the County Engineer.

**Sec. 15-5.4. Disclosure of Change of License Status or Disciplinary Action.**

Permits issued by the County shall have a condition requiring any contractor designated under a permit in accordance with Section 15-5.3 to inform the County Engineer as soon as practicable of any violations or disciplinary actions determined relevant by the County Engineer to which the contractor is a party.

**Sec. 15-5.5. Rulemaking Authority.**

Pursuant to Chapter 91, Hawai'i Revised Statutes, the County Engineer may promulgate rules to carry out the purposes of this Article."

SECTION 3. If any provision of this Ordinance or application thereof to any person, persons, or circumstances is held invalid, the invalidity does not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are severable.

SECTION 4. Ordinance material to be repealed is bracketed. New Ordinance material is underscored. When revising, compiling, or printing this Ordinance for inclusion in the Kaua'i County Code 1987, as amended, the brackets, bracketed material, and underscoring shall not be included.

SECTION 5. This Ordinance shall take effect upon its approval.

Introduced by:

A handwritten signature in black ink, appearing to read "Bill Decosta", with a long horizontal flourish extending to the right.

BILL DECOSTA  
(By Request)

DATE OF INTRODUCTION:

**July 6, 2022**

Līhu'e, Kaua'i, Hawai'i

V:\BILLS\2020-2022 TERM\2022-320 PDB Re Building and Construction Regs - replaces previous  
version (6-20-22) BD\_CNT\_mn.doc

CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2873, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on July 6, 2022, by the following vote:

FOR PASSAGE:	Carvalho, Chock, Cowden, Evslin, Kuali'i, Kaneshiro	TOTAL – 6,
AGAINST PASSAGE:	DeCosta	TOTAL – 1,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Lihu'e, Hawai'i  
July 7, 2022



Jade K. Fountain-Tanigawa  
County Clerk, County of Kaua'i

**A BILL FOR AN ORDINANCE AMENDING  
SECTIONS 25-11.1, 25-12.1, 25-13.4, AND 25-13.9  
OF THE KAUAI COUNTY CODE 1987, AS AMENDED,  
RELATING TO SEWERS**

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF KAUAI, STATE OF HAWAII:

SECTION 1. Chapter 25, Article 11, Section 25-11.1, Kauai County Code 1987, as amended, Unassessed Area, is hereby amended to read as follows:

“If an area to be served has not been previously assessed, the owner shall be required to pay a sewer connection charge [of:] (SCC) in accordance with the following schedules (Effective July 1, 2023):

(a) Twelve cents (\$0.12) per square foot of sewerable area for hospital and industrial uses;

(b) Ten cents (\$0.10) per square foot of sewerable area for commercial use;

(c) Two hundred dollars (\$200.00) per dwelling unit or twelve cents (\$0.12) per square foot of sewerable area for hotel resort use, whichever is greater;

(d) Two hundred dollars (\$200.00) per dwelling unit or ten cents (\$0.10) per square foot of sewerable area for multiple-family residential use, whichever is greater;

(e) Single-family residences at fifty dollars (\$50.00) per residential unit.

(f) Nonprofit or eleemosynary corporations not covered by the above categories shall be assessed two hundred dollars (\$200.00).]

<u>Customer Type</u>	<u>Sewer Connection Charge</u>	<u>Unit</u>
<u>Single-Family Residential</u>	<u>\$948</u>	<u>Per Residential Unit</u>
<u>Multi-Family Residential</u>	<u>\$593</u>	<u>Per Residential Unit</u>
<u>Non-Residential</u>		
<u>5/8", 3/4" Water Meter</u>	<u>\$948</u>	<u>Per Connection</u>
<u>1" Water Meter</u>	<u>\$1,580</u>	<u>Per Connection</u>
<u>1 1/2" Water Meter</u>	<u>\$3,160</u>	<u>Per Connection</u>
<u>2" Water Meter</u>	<u>\$5,050</u>	<u>Per Connection</u>
<u>3" Water Meter</u>	<u>\$9,480</u>	<u>Per Connection</u>
<u>4" Water Meter</u>	<u>\$15,800</u>	<u>Per Connection</u>
<u>&gt;4" Water Meter</u>	<u>\$3,088</u>	<u>Per gallon per day approved sewer flow"</u>



SECTION 2. Chapter 25, Article 12, Section 25-12.1, Kaua'i County Code 1987, as amended, Wastewater Treatment Capacity Assessment, is hereby amended to read as follows:

“(a) Applicants requiring connections to the sewer system shall be assessed a Wastewater Treatment Capacity Assessment (WTCA) fee in accordance with the following schedules (Effective July 1, 2023):

- [(1) Residential Unit (Effective July 1, 1999) \$3,900 per unit.
- (2) Nonresidential Users (Effective July 1, 1999).

Size of Water Meter	\$ Per Unit
5/8" & 0.75"	3,900
1.0"	6,630
1.5"	12,870
2.0"	20,670
3.0"	41,730
4.0"	65,130

Non-residential applicants who use a water meter which is greater than four (4) inches in diameter shall be assessed wastewater treatment capacity assessment fees based on the following per gallon per day rate schedule of the applicant's projected flow approved by the County Engineer: nine dollars and seventy-six cents (\$9.76), effective July 1, 1999.]

Customer Type	WTCA fee	Unit
<u>Single-Family Residential</u>	<u>\$3,080</u>	<u>Per Residential Unit</u>
<u>Multi-Family Residential<sup>(1)</sup></u>	<u>\$1,930</u>	<u>Per Residential Unit</u>
<u>Non-Residential</u>		
<u>5/8", 3/4" Water Meter</u>	<u>\$3,080</u>	<u>Per Connection</u>
<u>1" Water Meter</u>	<u>\$5,140</u>	<u>Per Connection</u>
<u>1 1/2" Water Meter</u>	<u>\$10,260</u>	<u>Per Connection</u>
<u>2" Water Meter</u>	<u>\$16,420</u>	<u>Per Connection</u>
<u>3" Water Meter</u>	<u>\$30,800</u>	<u>Per Connection</u>
<u>4" Water Meter</u>	<u>\$51,340</u>	<u>Per Connection</u>
<u>&gt;4" Water Meter</u>	<u>\$10.034</u>	<u>Per gallon per day approved sewer flow</u>

Notes:

(1)If a single-family residence is converted to a multi-family residence, the owner shall be credited the difference between the single-family residential rate and the multi-family residential rate for the initial residential unit, and each additional residential unit added shall be assessed a WTCA fee for a multi-family residential unit. Any future residential units added shall be assessed a WTCA fee for a multi-family residential unit.

(b) The wastewater treatment capacity assessment fee shall be paid in full prior to the issuance of a building permit, or in the case of a subdivision, the subdivider shall pay in full the fee for every lot, other than roadway lots or lots on which plumbing fixtures will never be located.

(c) Whenever due to an extension of the public sewer such that a lot with existing plumbing fixtures becomes accessible to a public sewer, and shall be connected to the public sewer pursuant to Section 25-2.1(a), the wastewater treatment capacity assessment fee shall be paid by the owner. Under this circumstance, the fees in this Article may be paid in accordance with the following schedule:

(1) Ten percent (10%) of the applicable fee to be paid prior to the issuance of the sewer connection permit; and

(2) The remaining ninety percent (90%) of the applicable fee may be payable in equal bi-monthly installments over a one (1) year period.

(3) There shall be added to each bi-monthly installment, interest on the unpaid balance of the applicable fee from the time of owing, at a rate to be calculated as one percent (1%) higher than the New York prime rate.”

SECTION 3. Chapter 25, Article 13, Section 25-13.4, Kaua'i County Code 1987, as amended, Schedule of Rates, is hereby amended to read as follows:

“(a) For Users of Private Water Systems. Sewered properties of residential or nonresidential use that are utilizing private water systems will be required to install prior to or at the time connection is made, at their own expense, water meters approved by the County Engineer measuring the water quantity used, or alternatively, will be required to install, at their own expense and at an appropriate location, a calibrated flume, weir, flow meter or similar device approved by the County Engineer for measuring wastewater quantity. A flow recording and totaling register will be required for an approved flow measuring device. Measurements to verify the quantities of flows will be performed on a random basis by the County Engineer.

(b) Residential Users. Effective [July 1, 2011,] July 1, 2023, monthly sewer service charges for residential users shall be in accordance to the following:

	<b>[Flat Rate Monthly Charge</b>			
<b>Fiscal Year Ending June 30th</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>
Single-Family	\$47.86	\$51.73	\$55.81	\$60.09
Multi-Family	\$45.95	\$47.24	\$48.60	\$50.03]

	<b>Flat Rate Monthly Charge</b>				
<b>Fiscal Year Ending June 30th</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>
Single-Family	\$66.50	\$73.75	\$82.00	\$91.00	\$101.00
Multi-Family	\$54.25	\$58.75	\$63.75	\$68.50	\$73.75

Flat rates and service charges for residential users shall be applied to each residential unit.

(c) Nonresidential Users. Effective [July 1, 2011,] July 1, 2023, monthly sewer service charges for nonresidential users shall be a service charge plus a volume charge in accordance to the following:

**[Charges for All Non-Residential Users**

<b>Fiscal Year Ending June 30th</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>
<b>Monthly Service Charge – All Non-Residential Users</b>	\$7.75	\$8.65	\$9.63	\$10.70
<b>Volume Charge – Metered Water</b>	<b>\$/1,000 Gallons</b>			
Hotels/motels/resorts, etc. Without restaurant	5.12	5.42	5.73	6.05
With restaurant	7.22	8.36	9.65	11.13
Restaurant	11.36	13.02	14.89	17.00
Group I A Commercial	3.35	3.35	3.35	3.35
Group I B Commercial	4.51	4.84	5.20	5.56
Group II Commercial	6.28	6.97	7.73	8.56
Group III Commercial	11.17	12.88	14.83	17.04
School	3.21	3.43	3.66	3.89
Park	0.59	0.63	0.67	0.71
Manufacturing/Industrial	7.11	8.09	9.18	10.39
<b>Volume Charge – Metered Wastewater or Dual Meter</b>	<b>\$/1,000 Gallons</b>			
Hotels/motels/resorts, etc. Without restaurant	6.98	7.69	8.48	9.35
With restaurant	12.85	14.17	15.60	17.20
Restaurant	17.01	18.75	20.67	22.77
Group I Commercial	5.99	6.43	6.89	7.36
Group II Commercial	8.37	9.30	10.31	11.41
Group III Commercial	17.05	18.80	20.72	22.83
School	5.56	5.85	6.45	7.11
Park	5.56	5.80	6.40	7.10
Manufacturing/Industrial	10.40	11.47	12.63	13.92
Airport	5.88	6.36	6.88	7.41
Cesspool Waste Disposal	30.00	30.00	30.00	30.00
Septic Tank Waste Disposal	146.74	165.77	186.92	210.37
Waste Activated Sludge	41.93	48.29	55.50	63.68]

**Charges for All Non-Residential Users**

<b><u>Fiscal Year Ending June 30th</u></b>	<b><u>2024</u></b>	<b><u>2025</u></b>	<b><u>2026</u></b>	<b><u>2027</u></b>	<b><u>2028</u></b>
<b><u>Monthly Service Charge – All Non-Residential Users</u></b>	<b><u>\$11.00</u></b>	<b><u>\$11.44</u></b>	<b><u>\$11.90</u></b>	<b><u>\$12.05</u></b>	<b><u>\$12.05</u></b>
<b><u>Volume Charge – Metered Water</u></b>	<b><u>\$/1,000 Gallons</u></b>				
<u>Hotels/motels/resorts, etc.</u>					
<u>Without restaurant</u>	<u>6.80</u>	<u>7.64</u>	<u>8.58</u>	<u>9.65</u>	<u>10.84</u>
<u>With restaurant</u>	<u>12.35</u>	<u>13.69</u>	<u>15.19</u>	<u>16.85</u>	<u>18.69</u>
<u>Restaurant</u>	<u>18.80</u>	<u>20.78</u>	<u>22.98</u>	<u>25.41</u>	<u>28.09</u>
<u>Group I A Commercial</u>	<u>3.65</u>	<u>3.97</u>	<u>4.32</u>	<u>4.71</u>	<u>5.12</u>
<u>Group I B Commercial</u>	<u>6.29</u>	<u>7.11</u>	<u>8.04</u>	<u>9.10</u>	<u>10.29</u>
<u>Group II Commercial</u>	<u>9.57</u>	<u>10.70</u>	<u>11.96</u>	<u>13.37</u>	<u>14.95</u>
<u>Group III Commercial</u>	<u>18.84</u>	<u>20.83</u>	<u>23.02</u>	<u>25.45</u>	<u>28.14</u>
<u>School</u>	<u>4.41</u>	<u>4.99</u>	<u>5.65</u>	<u>6.40</u>	<u>7.25</u>
<u>Park</u>	<u>0.80</u>	<u>0.91</u>	<u>1.03</u>	<u>1.16</u>	<u>1.32</u>
<u>Manufacturing/Industrial</u>	<u>11.57</u>	<u>12.88</u>	<u>14.35</u>	<u>15.98</u>	<u>17.79</u>
<b><u>Volume Charge – Metered Wastewater or Dual Meter</u></b>	<b><u>\$/1,000 Gallons</u></b>				
<u>Dual - Hotels/motels/resorts, etc.</u>					
<u>Without restaurant</u>	<u>10.50</u>	<u>11.78</u>	<u>13.23</u>	<u>14.85</u>	<u>16.68</u>
<u>With restaurant</u>	<u>19.06</u>	<u>21.12</u>	<u>23.41</u>	<u>25.94</u>	<u>28.75</u>
<u>Dual - Restaurant</u>	<u>25.15</u>	<u>27.79</u>	<u>30.69</u>	<u>33.91</u>	<u>37.45</u>
<u>Dual - Group I Commercial</u>	<u>8.33</u>	<u>9.42</u>	<u>10.65</u>	<u>12.05</u>	<u>13.63</u>
<u>Dual - Group II Commercial</u>	<u>12.76</u>	<u>14.26</u>	<u>15.94</u>	<u>17.83</u>	<u>19.93</u>
<u>Dual - Group III Commercial</u>	<u>25.12</u>	<u>27.85</u>	<u>30.76</u>	<u>33.97</u>	<u>37.52</u>
<u>Dual - School</u>	<u>8.04</u>	<u>9.10</u>	<u>10.30</u>	<u>11.65</u>	<u>13.18</u>
<u>Dual - Park</u>	<u>8.03</u>	<u>9.09</u>	<u>10.29</u>	<u>11.64</u>	<u>13.18</u>
<u>Dual - Manufacturing/Industrial</u>	<u>15.49</u>	<u>17.23</u>	<u>19.17</u>	<u>21.32</u>	<u>23.72</u>
<u>Dual - Airport</u>	<u>8.38</u>	<u>9.09</u>	<u>10.29</u>	<u>11.64</u>	<u>13.72</u>
<u>Cesspool/Septic and Waste Activated Sludge Disposal</u>	<u>59.98</u>	<u>64.80</u>	<u>88.78</u>	<u>94.63</u>	<u>101.18</u>

(1) An account with two (2) different types of customer classes serviced by the same water meter shall be charged the higher rate.

(2) Should an owner of a mixed use with restaurant account install a new meter to service the restaurant only, then the uses associated with the respective meters will be charged the appropriate rates.

(3) For uses not specifically included in the list of categories Group I, II or III, the County, based on information provided by the

applicant on usage(s) of the property, would designate at its sole discretion, the appropriate category for sewer billing. Generally establishments not listed in Group II or Group III Commercial would be considered to be Group I Commercial unless specific information indicates otherwise.

(d) Change in Use of the Property. Whenever there is a change in the use of a property, the owner of the property shall notify the Division of Wastewater Management of the change thirty (30) days prior to the initiation of the new use. If the change in use of the property results in a change to the method of billing wastewater charges, billing shall be accomplished pursuant to Sec. 25-13.6, Charges for the First and Last Months.

(e) R-1 and R-2 Reuse Water. Effective [July 1, 2011,] July 1, 2023, charges for users of R-1 and R-2 water produced by County sewage treatment plants shall be in accordance to the following:

(1) R-2 Water. Twenty cents (\$0.20) per one thousand (1,000) gallons of water used.

(2) R-1 Water. Rate for R-1 water to be negotiated between R-1 water consumer and the County on a case-by-case basis. The cost per one thousand (1,000) gallons of R-1 water shall not exceed the cost to the consumer of alternative sources of water.”

SECTION 4. Chapter 25, Article 13, Section 25-13.9, Kaua'i County Code 1987, as amended, Sewer Credit Based on Income, is hereby amended to read as follows:

“(a) Definitions. As used in this Section:

“County Engineer” means the County Engineer, Department of Public Works, County of Kaua'i or duly authorized representative.

“Director” means the County Director of Finance.

“Income” means the greater of either (1) a residential sewer customer's adjusted gross income under the U.S. Internal Revenue Code of [1954,] 1986, as amended, or (2) a residential sewer customer's adjusted gross income under Chapter 235, H.R.S.

“Residential sewer customer” or “customer” means a natural person living in a dwelling unit, who is classified as a residential user under Sec. 25-13.5(b), and who owns, rents, or leases the dwelling unit receiving County sewer service.

(b) A residential sewer customer shall be granted a monthly credit of [~~\$20.00~~] twenty-four dollars (\$24.00) for Fiscal Year 2024, twenty-eight dollars (\$28.00) for Fiscal Year 2025, thirty-two dollars (\$32.00) for Fiscal Year 2026, thirty-six dollars (\$36.00) for Fiscal Year 2027, and forty dollars (\$40.00) for Fiscal Year 2028 if the conditions of paragraph (c) of Sec. 25-13.9 are satisfied. The credit shall be effective the calendar month immediately following the month that the customer has satisfied the conditions of paragraph (c) of Sec. 25-13.9.

The County General Fund shall pay for all credits granted.

(c) No credit shall be granted under this Section unless the Director determines that a residential sewer customer has satisfied the following conditions:

(1) The customer shall sign the application form promulgated by the Director. Where the applicant is a tenant or lessee, the legal owner of the property benefited by the County's sewer service shall also execute the application form. The tenant or lessee and the legal owner shall also provide their address of record in the application form.

In the application form, the customer shall consent to the release of, and authorize the State Department of Taxation to release to the Director at any time during the time which the customer receives a residential sewer credit, certified copies of those portions of the customer's State personal income tax return or records showing the customer's adjusted gross income under Chapter 235, H.R.S. This authorization and consent shall be used by the Director for purposes of verifying the customer's income and, therefore, eligibility for the credit granted under this Sec. 25-13.9. The customer shall execute any additional forms required by the Director or the State Department of Taxation to facilitate the release of tax information required under this subparagraph (1).

(2) The dwelling unit in which the customer resides must be the customer's principal residence. The customer may receive the credit only if the dwelling unit in which the customer resides is the customer's principal residence.

A husband and a wife shall not each be entitled to a credit on separate dwelling units owned, in whole or in part, by either or both of them unless they live physically separate and apart, on a continuous basis, in separate dwelling units.

(3) A residential sewer customer's annual income shall not exceed [~~\$40,000.00~~] forty-eight thousand dollars (\$48,000.00) for the calendar year immediately preceding the year in which the customer applies for the credit.

The customer's annual income shall not exceed [~~\$40,000.00~~] forty-eight thousand dollars (\$48,000.00) at any time during the time which the customer enjoys the benefit of the credit under this Sec. 25-13.9.

(4) The residential sewer customer shall submit with his or her application filed copies from those portions of the customer's Federal and State personal income tax return or records for the calendar year immediately preceding the year in which the customer applies for the credit, showing the customer's adjusted gross income under the U.S. Internal Revenue Code of [1954,] 1986, as amended; and adjusted gross income under Chapter 235, H.R.S.

If a customer was not required to file a personal income tax return under either the U.S. Internal Revenue Code of [1954,] 1986, as amended or Chapter 235, H.R.S., or both, the customer shall sign and submit an affidavit attesting to the income the customer received from all sources for the calendar year immediately preceding the year in which the customer applies for the credit. The Director shall prescribe the form of the affidavit.

The Director may deny the application of any customer who fails or refuses to provide the proof of income required under this paragraph (c) of Sec. 25-13.9. The Director may also deny a customer's application if the customer fails or refuses to provide information or documents the Director believes is reasonably necessary for purposes of verifying that the customer has satisfied the conditions of this paragraph (c) of Sec. 25-13.9.

(d) The Director and the County Engineer shall prescribe the application form and other forms relating to the credit granted under this Sec. 25-13.9.

(e) The Director shall annually obtain from the State Department of Taxation certified copies of income tax records from at least one percent (1%) of all customers receiving the residential sewer credit for purposes of verifying that the customers continue to satisfy the income qualifications requirements under paragraph (c) of Sec. 25-13.9. The County Engineer and the Director shall verify the information to satisfy the income qualification requirements under paragraph (c) of Sec. 25-13.9. For this purpose, records shall be randomly selected.

(f) Any credit granted under this Sec. 25-13.9 shall continue in effect until one (1) or more of the following events occur:

(1) A customer receiving the credit fails to satisfy any condition or requirement under paragraph (c) of this Sec. 25-13.9.

(2) A customer receiving the credit is no longer a "residential sewer customer" as defined under this Sec. 25-13.9.

Upon the occurrence of any event described immediately above, or any event described in this paragraph (f) which would cause a customer to lose his or her credit, the Director shall terminate the customer's residential sewer credit. The credit shall be terminated sixty (60) calendar days after the date that the Director sends a notice of termination to the customer and legal owner. The notice shall be sent via certified mail to the customer's and legal owner's address of record.

A customer receiving the credit shall have a duty to report to the Director any fact or event that would cause the customer to lose his or her residential sewer credit including, but not limited to, the fact that the customer's annual income exceeds [~~\$40,000.00~~] forty-eight thousand dollars (\$48,000.00) and that the dwelling unit in which the customer resides is no longer the customer's principal residence. The customer shall report any such facts or events within thirty (30) calendar days of their occurrence. The customer's failure or refusal to report any such fact or event within the specified time shall constitute sufficient basis for the Director to terminate the customer's credit.

If the Director has reasonable basis to believe that a customer receiving the credit no longer satisfies the income qualification requirement under paragraph (c) of Sec. 25-13.9, the Director may require the customer to provide evidence of the customer's income. Such evidence may include, but shall not be limited to, filed copies of the customer's Federal and State personal income tax return or records showing the customer's adjusted gross income under the U.S. Internal Revenue Code of [1954,] 1986, as amended, and adjusted gross income under Chapter 235, H.R.S. The Director may also require the customer to obtain and submit certified copies of such returns and records from the U.S. Internal Revenue Service or State Department of Taxation. The customer's failure or refusal to provide the required tax information shall constitute sufficient basis for the Director to terminate the customer's credit.

(g) Any person who files a fraudulent application or attests to any false statement, with intent to defraud or to evade the payment of his or her sewer bill or any part thereof, or who in any manner intentionally deceives or attempts to deceive the Department of Finance to receive the credit granted by this Sec. 25-13.9, shall be fined one thousand dollars (\$1,000.00) or imprisoned for not more than one (1) year, or both.

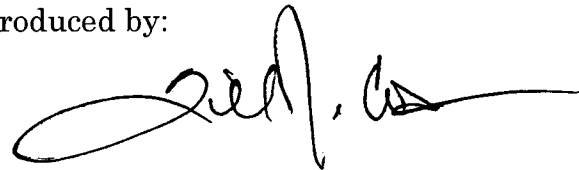
(h) The Director and the County Engineer may adopt rules pursuant to Chapter 91, H.R.S. for purposes of implementing and administering this Section."

SECTION 5. Severability. If any provision of this Ordinance or the application thereof to any person, persons, or circumstances is held invalid, the invalidity does not affect the other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable.

SECTION 6. Ordinance material to be repealed is bracketed. New material is underscored. When revising, compiling, or printing this Ordinance for inclusion in the Kaua'i County Code 1987, as amended, the brackets, bracketed material, and underscoring need not be included.

SECTION 7. This Ordinance shall take effect July 1, 2023.

Introduced by:



BILL DECOSTA  
(By Request)

DATE OF INTRODUCTION:

**July 6, 2022**

Lihu'e, Kaua'i, Hawai'i

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CERTIFICATE OF THE COUNTY CLERK

I hereby certify that heretofore attached is a true and correct copy of Bill No. 2874, which was passed on first reading and ordered to print by the Council of the County of Kaua'i at its meeting held on July 6, 2022, by the following vote:

FOR PASSAGE:	Carvalho, Chock, Cowden, Evslin, Kuali'i, Kaneshiro	TOTAL – 6,
AGAINST PASSAGE:	DeCosta	TOTAL – 1,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Lihu'e, Hawai'i  
July 7, 2022



Jade K. Fountain-Tanigawa  
County Clerk, County of Kaua'i