



CITY OF BEVERLY HILLS

PUBLIC WORKS SERVICES DEPARTMENT

MEMORANDUM

TO: PUBLIC WORKS COMMISSION

FROM: Trish Rhay, Assistant Director of Public Works Services
Caitlin Sims, Senior Management Analyst

DATE: July 14, 2016

SUBJECT: SUB-METERING ORDINANCE

ATTACHMENT:

1. City of Santa Monica November 10, 2015, Agenda Report Regarding Water Submeters and Introduction of Ordinance
2. City of San Diego Ordinance Regarding Water Sub-metering

At its July 15, 2015, meeting, the Public Works Commission voted to recommend that the City Council amend the Building and Safety Code to require multi-family dwellings to have a separate water meter for each unit.

Following that direction, staff explored alternatives to implement the Commission's recommendation and present a recommendation to amend the Beverly Hills Municipal Code to the City Council. The following two alternatives were presented to the City Council at its September 10, 2015, Study Session:

1. Require new multi-family construction to include individual water meters for each unit. The individual water meters would be installed by the City on the public right-of-way and would be read, billed and maintained by the City.
2. Require new multi-family construction to install submeters for each unit. The new construction would have one master water meter, which would be installed by the City in the public right-of-way and would be read, billed and maintained by the City. The building owner would be required to install a sub-metering system on the property itself that would provide water consumption data for each individual unit. The building owner would then be responsible for the ongoing maintenance, reading and billing for the submeters.

Both alternatives present their own benefits and challenges.

If new multi-family construction projects were required to install individual water meters for each of their units, the City would install the meters in the public right-of-way, maintain the meters, and bill each tenant each billing period. The developer would be responsible for paying all connection, capacity and other fees. The benefits of individual metering are that the City would continue to have direct contact with all customers for whom it was providing water, and the landlord would not be responsible for any of the installation or maintenance. In addition, the majority of the multi-family properties that are already individually metered have individual City-installed meters.

In practice, it may be difficult to install individual meters for each unit, especially for large properties. City-installed water meters are placed in the public right-of-way, and with space

limitations and conflicts with other utility services in the area, there may not be sufficient space to install a large number of meters. Even with sufficient space, the meters create an uneven surface that could become a trip-and-fall hazard and compromise aesthetics. In addition, adding additional water customers and meters would increase the amount of staff time required to complete water meter installations, ongoing meter maintenance and customer billing.

If new multi-family construction projects were required to install submeters, the City would install one master meter, in the public right-of-way, and the developer would be required to install a submeter system on the property side of the water meter. Submeters are individual meters behind the master meter. These meters are installed on each water line servicing the individual units, allowing the monitoring of water consumption for each unit. While the master meter is City-owned, maintained and billed, submeters are owned, operated, maintained and billed by the landlord, property management firm, condominium association or homeowners association. Requiring sub-metering, rather than individual metering, would reduce the impact on the public right-of-way, especially for large multi-family projects. It would also reduce the City's costs to install, maintain and bill a large number of public water meters. In addition, with sub-metering, the landlord would be required to implement the submeter system, and the City would not have a direct relationship with the tenants receiving water from the City.

Few cities in Southern California currently require new multi-family properties to record water usage for individual multi-family units. The cities of San Diego, Long Beach and Santa Monica have all adopted ordinances requiring sub-metering in new multi-family construction. The City of San Diego adopted an ordinance in 2010 that requires all new multi-family residential construction and all existing multiple dwelling units in which the entire interior potable water supply is being replaced to install submeters. The ordinance also includes the parameters for submeter billing, including provisions for variable charges, fixed charges and administrative fees, as well as submeter bill contents and records retention. The ordinance was developed over the course of two years with significant involvement from the San Diego County Apartment Association, the Building Industry Association of San Diego, the San Diego Regional Chamber of Commerce and submeter installers. The entire ordinance can be found at <http://dockets.sandiego.gov/sirepub/pubmtgframe.aspx?meetid=648&doctype=Agenda>.

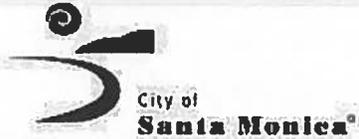
For reference, a copy of San Diego's sub-metering ordinance is included as Attachment 2. The City of Long Beach adopted a similar ordinance modeled on that of San Diego in 2012, following significant outreach to the affordable housing community.

The City of Santa Monica ("CSM") adopted an ordinance in 1990 that required individual water meters be installed for each unit of new multi-family residential construction. However, this ordinance was rarely enforced, given the practical space restrictions of placing a significant number of water meters in the public right-of-way. To address this issue, CSM amended the ordinance in November 2015. New multi-family residential construction with six or fewer residential units is now required to install individual meters. New multi-family residential construction with more than six units is required to install a submeter system. The Santa Monica ordinance can be found at

http://santamonicacityca.iqm2.com/Citizens/Detail_LegiFile.aspx?Frame=&MeetingID=1047&MediaPosition=&ID=1447&CssClass=. For reference, a copy of City of Santa Monica's City Council agenda report and introduction of the ordinance is included as Attachment 1. The ordinance will result in fewer public meters in the public right-of-way, resulting in fewer conflicts with parking areas, street trees, refuse enclosures and other utilities, as well as reduce city costs for installation, maintenance and billing with fewer public meters. At the same time, smaller multi-family units did not have to take on the burden of sub-metering.

Given the practical concerns that Santa Monica had faced in requiring the installation of individual meters, staff is proposing that the Public Works Commission consider an ordinance similar to that of Santa Monica. This would mean that projects smaller than a given size would be required to install individual meters, while projects larger than a given size would be required to install a submeter system. The proposed ordinance would only apply to new multi-family residential construction. It is much more difficult for existing multi-family buildings to retrofit their facilities to include sub-metering. Rather than requiring sub-metering, some water agencies – including the East Bay Municipal Utilities District in the San Francisco Bay Area – have provided incentives to multi-family residential customers to install submeters. This would be another mechanism to encourage the installation of submeters in multi-family residential construction.

Staff seeks a recommendation from the Public Works Commission on the proposed alternatives to require individual metering for new multi-family residential construction. Any recommendation from the Public Works Commission will be presented to the Public Works Liaison and to the City Council at an upcoming meeting. Staff will present the alternatives and be available to answer questions at the July 14, 2016, Public Works Commission meeting.



City Council Report

City Council Regular Meeting: November 10, 2015
Agenda Item: 7.D

To: Mayor and City Council
From: Martin Pastucha, Director, Public Works, Water Resources
Subject: Introduction for First Reading of an Ordinance Amending Santa Monica Municipal Code Section 7.12.150 Which Requires Individual Water Meters for Each Residential Unit in New Multi-family Residential projects; and Adopt a Resolution Establishing Reduced Water Rate Discounts for MFR Units in 100% Affordable Housing Projects.

Recommended Action

Staff recommends that the City Council:

- (1) Introduce for first reading the attached ordinance (attachment A) amending Santa Monica Municipal Code Section 7.12.150 which requires individual water meters for each residential unit in new multi-family residential projects. The proposed amendment would provide that individual meters be required for all residential projects with six residential units or fewer, and require a City master meter and private submeters for all multi-family residential (MFR) projects with more than six residential units. In addition, the proposed amendment would remove the existing exemption for affordable housing projects.
- (2) Adopt the attached resolution (attachment B) establishing a reduced water rate discount for MFR units in 100% affordable housing projects.
- (3) Authorize the budget changes as outlined in the Financial Impacts and Budget Actions section of this report.

Executive Summary

Existing code which has been in effect since 1990 requires individual water meters for each unit of new MFR construction. Practical limitations exist in attempting to place more than six meters at a new MFR project, given the space restrictions in alleys and street parkways. The existing code contains an exemption to this requirement for affordable housing projects. Given the water conservation benefits of individual metering, via submetering, for all residential units including low income units, this report recommends amending SMMC Section 7.12.150 to clarify that MFR projects with more than six units be required to install a City master meter with private submeters, and that the exemption for affordable housing projects be removed. To offset the cost impacts of eliminating the exemption from separate metering for affordable housing projects,

staff recommends reduced water rates for MFR units in 100% dedicated affordable housing projects.

Background

SMMC Section 7.12.150 requires individual water meters for each unit of new multi-family residential construction. It includes an exemption for affordable housing projects, allowing the developer to provide a single master meter for the project if an acceptable alternative method for determining water consumption for each unit is provided.

Although the staff report introducing Ordinance No. 1513 (CCS) at the February 13, 1990 (attachment C) Council meeting addressed the issue from the perspective of construction costs, the prevailing consideration at the time was a prolonged drought affecting California from 1987–1992. It was assumed that individual metering would enable residents and the City to monitor water consumption and reinforce water conservation measures in place at the time.

However, as a practical and legal matter, implementation of the requirement is a challenge for many multi-family residential developments. To allow for periodic reading and maintenance, SMMC Section 7.12.140 (e) requires that water meters be placed within the public right-of-way on the street side of the development or in an alley behind the project. The frontage area of many properties along the street often is not large enough to accommodate multiple meters, and alleys behind many properties similarly present space constraints due to their narrow width and conflicts with other utility services in the alley. As a practical matter, the two code sections conflict. Multi-family projects incorporating more than six units require significant space for meters which is often not available because of placement of parkway trees, refuse enclosures, or parking areas among other things. Consequently, projects other than affordable housing developments have installed master meters rather than individual meters, with the condition that submeters be installed as a means of monitoring individual water consumption and continuing the focus on water conservation. This requirement is enforced by Public Works staff in Water Resources as a condition of development or during plan check by staff in the Civil Engineering Division.

Submeters are individual meters behind the master meter. These meters are installed on each water line servicing the individual units, allowing the monitoring of water consumption for each unit. Whereas the master meter is City-owned and maintained, submeters are owned, operated, and maintained by the landlord, property management firm, condominium association, or homeowners association. A representative listing of multi-family residential projects, which have been required to install submeters in recent years, is included in attachment D. For illustrative purposes, attachment E is a photograph of a submeter installation for an 8-unit project at 1837 12th Street.

Also, plumbing systems in new multi-family construction utilize central water heaters for the entire building, thereby providing energy savings for the building as opposed to having multiple water heaters. As a result, each unit is supplied with separate cold and hot water service lines. In some cases developers have installed dual submeters in individual units, but the technology for hot water meters is relatively new. Therefore, the more common practice has been to provide cold water meters only for individual units. As an alternate methodology to submeters, some landlords in multi-family developments in Santa Monica have utilized the Ratio Utility Billing System, or RUBS. In the RUBS approach, water consumption is allocated to each tenant through an allocation formula, which can include one or a combination of the following factors:

- Number of occupants
- Square footage
- Number of bathrooms or bedrooms
- Number of water fixtures

Over the years, staff has received complaints from some tenants about use of RUBS. Some tenants have claimed RUBS methodology is unfair because it does not reflect their actual usage. Others have complained that it does not comply with the code requirement for individual meters.

Discussion

A conflict exists between the existing requirement to place water meters in the public right-of-way and the requirement for individual water meters for most multi-family residential unit. The placement of meters in the public right-of-way is necessary to avoid potential exposure in the event of leaks at the meter or other failure in the service line on private property. Additionally, meter maintenance and meter reading is facilitated in having access to the facilities without having to enter private property and the associated liability. As a result, practically speaking, changing SMMC Section 7.12.140 (e) (the requirement to place meters in the public right-of-way) is not recommended.

Proposed amendment to 7.12.150 related to water meter requirements for new multi-family residential construction

Given the practical impediments and physical limitations, which make it infeasible to require the installation of a separate City-owned water meter for each unit of a new multi-family development, staff recommends a revision to SMMC Section 7.12.150 to require individual meters for all new multi-family developments with six or fewer units, and require a master meter and individual unit submeters for new multi-family developments with greater than six units, and repealing the affordable housing exemption. The benefits of the revision include:

- Clarification of the requirements for individual meters for each residential unit by establishing a clear threshold of the number of units in a project above which a master meter (owned and maintained by the City) is required in the public right of way in combination with submeters on property (owned/maintained/monitored by the property owner);
- Fewer public meters in the public right of way, resulting in less conflicts with parking areas, street trees, refuse enclosures, and other utilities,
- Reduced cost to the city for installation, maintenance, and billing resulting from fewer public meters;
- Enhanced conservation opportunities in providing a means to measure individual water consumption in all residential units, including those in affordable housing projects.

Water conservation continues to be a key element in the City's water management strategy. California has experienced drought in 1987-1992, 2000-2002, and 2007-2009. Given the current drought conditions (2011 to present year) and the City's stated goal of achieving water self-sufficiency by the year 2020, meeting water conservation goals is an integral component of demand management strategies, which when coupled with supply augmentation opportunities, will assist the City in achieving its water conservation goals.

Prior to and following the adoption of Ordinance No. 1513 (CCS) in 1990, the City adopted and amended numerous water conservation ordinances and initiatives, including SMMC Chapter 7.16, Water Conservation, which addresses:

- Establishment of Water Conservation Plans and Water Shortage Response Plans;
- No-Water Waste requirements addressing time of day landscape irrigation restrictions, and prohibiting irrigation overspray and runoff;
- Establishment of a water demand mitigation fee to mitigate the estimated daily water consumption rate projected for the development.

Additionally, SMMC Chapter 7.18, Water Conservation Plumbing Standards, was adopted in 1993 to require all plumbing fixtures in a structure to be retrofitted with water conserving fixtures upon sale or transfer of the structure.

The City's Office of Sustainability and the Environment (OSE) manages the City-wide Sustainability Program, including several community-focused water conservation programs:

- Administration of the City's Water Shortage Response Plan;
- Community based water education programs with outreach to local schools;
- Landscape and gardening water efficiency assistance;
- Water waste ordinance enforcement;
- Administering community rebate and grant programs for water efficient appliances and irrigation systems, and purchase and installation of rain barrels and cisterns.

Currently, drought conditions in the period 2011–present have resulted in Council's adoption of Stage 2 water shortage conditions on August 12, 2014 (attachment F) and development of a water allocation plan through amendments to the City's Water Shortage Response Plan at the January 13, 2015 (attachment G) Council meeting.

Continuation of the conservation strategies and public outreach will be necessary to achieve conservation goals. Recent development of more water efficient indoor fixtures and appliances has created opportunities for enhanced indoor water efficiencies. Additional water savings can be achieved through enhancements in outdoor water efficiency. Nevertheless, the requirement for water use accountability in all individual residential units (single and multi-family) remains a highly effective way to maintain residential water efficiency.

Proposed water rates discount for multi-family residential units in 100% affordable housing projects

SMMC Section 7.12.150 includes an exemption for affordable housing developments, presumably to encourage such projects by reducing construction costs. The exemption was conditioned upon providing an acceptable alternative method for determining water consumption for each unit. Since the majority of new affordable housing projects will likely be larger than six units and the conservation incentive and accountability goals are the same for affordable units as for market rate units, the exemption for affordable housing projects in the original ordinance is inconsistent with City conservation goals.

If the exemption for low income multi-family residential projects is removed, thereby requiring these projects to include plumbing for submeters, construction costs would see an increase of up to \$1,000 per residential unit. This estimate was provided by Community Corporation representatives. As a potential offset to this cost increase, staff recommends reduced water rates for multi-family residential units in 100% affordable housing projects. Similar to the low-income program currently provided for single-family customers, the discount would be \$1 per HCF of water in the first tier for each unit in an affordable housing project.

In the current rate structure, multi-family customers receive 4 HCF of water in the first tier for each residential unit. Accordingly, the maximum discount provided would be \$4 per residential unit per billing period. For example, a 20 unit low income project would receive up to an \$80 discount in a single billing period.

The proposed low income discount, if approved by Council, would apply to all units in 100% affordable housing projects only. It is also important to note that whereas the submeter requirement would apply only to new MFR projects, the proposed low income discount would be applied to all residential units in 100% affordable housing projects including those projects already built. There currently are approximately 3,500 low income MFR units throughout the city. The availability of the discount to existing low income units presented a more acceptable cost offset to Community Corporation over the increase in project construction costs and the discount being applied only to new projects.

Regional comparison cities were surveyed to inquire about a similar program to provide financial relief for multifamily residential customers. Low income multi-family water discounts are not provided in Burbank, Glendale, Los Angeles, Long Beach, or Pasadena (Los Angeles and Pasadena provide single-family low income customer discounts similar to the Santa Monica single-family low income program). Similarly, staff surveyed the cities of San Francisco, Sacramento, and San Jose and found no existing program in those cities which provided low income water pricing for multi-family residential customers.

The same comparison cities were also surveyed to inquire about their local requirement for submeters in multifamily residential projects. Although not widely implemented among the cities, Pasadena and Beverly Hills have existing regulations similar to the individual meter ordinance proposed for Santa Monica.

<i>Agency</i>	<i>Multi-Family Low Income Water Discount</i>	<i>Submeters required by Code or Ordinance</i>
Burbank	None	None
Glendale	None	None
Los Angeles	None	Optional, not required
Long Beach	None	None
Pasadena	None	Master meter/submeters for new MFR projects
Beverly Hills	None	Master meter/submeters for new projects greater than 3 units
Sacramento	None	None
San Francisco	None	None
San Jose	None	None

At the state level, Senator Lois Wolk, 3rd District, has introduced SB-7 for the 2015-2016 legislative session, Water Submeters in Multi-Residence Structures. The proposed bill authorizes the Department of Housing & Community Development to develop and propose standards requiring the installation of water submeters in new multi-unit residential rental buildings. Staff will monitor the progress of this legislation.

Cost of service requirements in Proposition 218 require that the discount provided to qualified low income customers be covered by the City's General Fund in order to avoid it becoming subsidized by other rate payers. The projected General Fund transfer to the Water Fund is estimated at approximately \$84,000 per year (3,500 units x \$4/unit/billing period x 6 billing periods/year). Additional low income units added in any given year would increase the general fund transfer amount by \$24 per MFR unit per year (\$4/unit/ billing period x 6 billing periods/year).

Financial Impacts & Budget Actions

The projected discount to qualifying low income MFR projects is approximately \$84,000 in the first year. The following budget action would be required to reimburse the Water Fund:

1. Appropriation of budgets in the amount of \$84,000 for transfers from the General Fund (01695.570081) to the Water Fund (25695.570081).

Prepared By: Gil Borboa, Water Resources Manager

Approved



Martin Pastucha, Director

10/29/2015

Forwarded to Council



Rick Cole, City Manager

11/3/2015

Attachments:

- A. Ordinance
- B. Resolution
- C. February 13, 1990 Staff Report (weblink)
- D. Recent Submetered Multi-Family Residential Projects
- E. Submeter Installation for an 8-unit Project
- F. August 12, 2014 Staff Report (weblink)
- G. January 13, 2015 Staff Report (weblink)

ORDINANCE NUMBER _____ (CCS)

(City Council Series)

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
SANTA MONICA REQUIRING INDIVIDUAL METERS FOR ALL MULTI-FAMILY
RESIDENTIAL PROJECTS WITH SIX UNITS OR FEWER; REQUIRING ALL MULTI-
FAMILY RESIDENTIAL PROJECTS WITH GREATER THAN SIX UNITS TO INSTALL
A MASTER METER AND SUBMETERS; AND DELETING THE METER EXEMPTION
FOR LOW AND MODERATE MULTI-FAMILY HOUSING**

WHEREAS, Santa Monica Municipal Code (SMMC) section 7.12.150(a) currently requires individual water meters for each unit of new multi-family residential construction and includes an exemption for affordable housing projects, allowing the developer to provide a single master meter for the project if an acceptable alternative method for determining water consumption for each unit is provided; and

WHEREAS, SMMC section 7.12.040(e) currently requires that water meters be placed in the public rights of way; and

WHEREAS, due to existing space constraints in the public rights of way, new multi-family residential construction projects containing more than six (6) dwelling units are unable to include separate meters for each dwelling unit in the public rights of way; and

WHEREAS, the requirement of separate metering per SMMC section 7.12.150 conflicts with the requirement of meter placement in the public rights of way per SMMC section 7.12.140(e); and

WHEREAS, SMMC section 7.12.150(b) currently includes an exemption for separate metering of each dwelling unit in an affordable housing project, to encourage such projects by reducing construction costs; and

WHEREAS, the City Council declared a Stage 2 Water Supply Shortage due to on-going and persistent drought conditions; and

WHEREAS, the City desires to cause the monitoring of water use from individual dwelling units in new multi-family residential construction projects to the greatest extent feasible; and

WHEREAS, the exemption from separate water meters for affordable housing projects is not consistent with City's water conservation goals.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Santa Monica Municipal Code Section 7.12.150 is hereby amended to read as follows:

7.12.150 Meter requirements for new multi-family residential construction.

(a) Multi-family residential dwellings comprising six or fewer residential units for which a building permit is issued after the effective date of the ordinance codified in this Section shall be required to install individual water meters for each unit in the manner approved by the Utilities Manager.

(b) Multi-family residential dwellings comprising more than six residential units shall install a master meter in a location approved by the Water Resources Manager, or his designee, as a means of measuring the total water use of the multi-family project. The master meter will be owned and maintained by the City. Submeters shall be required to measure water consumption in individual residential units. Submeters shall be privately owned and maintained.

~~(b) The Utilities Manager may exempt a low and moderate housing multi-family development from installing individual water meters for each unit if the developer provides an acceptable method of determining water consumption for each unit. A low and moderate housing development is defined as a residential development in which the majority of the units are restricted to occupancy by low income households and moderate income households, at affordable housing costs, pursuant to a covenant or deed restriction recorded against the property and approved by the City. (Prior code § 7211.5; added by Ord. No. 1513CCS, adopted 2/27/90)~~

SECTION 2. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 3. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed

this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective 30 days from its adoption.

APPROVED AS TO FORM:


MARSHA JONES MOUTRIE
City Attorney

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 6, ARTICLE 7, DIVISION 1 OF THE MUNICIPAL CODE; AMENDING CHAPTER 6, ARTICLE 7 BY ADDING NEW DIVISION 6; AMENDING CHAPTER 14, ARTICLE 7, DIVISION 4 BY ADDING NEW SECTION 147.0410; ALL RELATING TO WATER SUBMETERING.

WHEREAS, the San Diego region is heavily reliant on imported water, importing as much as 90% of its water from outside the County; and

WHEREAS, increased water conservation is necessary to ensure sufficient water resources for current and future residents of the City of San Diego; and

WHEREAS, nearly 50% of the residents of the City of San Diego live in multi-family residential or mixed-use buildings where water consumption in each individual unit is not measured; and

WHEREAS, the cost of water and sewer service for multi-family residential and mixed-use buildings is often divided among the individual units without regard for the actual volume of water consumed in the unit; and

WHEREAS, charging individual residential units in multi-family residential and mixed-use buildings based on the actual amount of water consumed will create a financial incentive for residents of multi-family residential units to conserve water; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 6, Article 7, Division 1 of the San Diego Municipal Code is amended by amending Section 67.0102:

§67.0102 Water System – Definitions

The words and phrases used in this Article have the meanings set forth in this section.

Applicant through Fire Service Connection [No change in text.]

Fixed charges means the charges in the *master bill* that do not vary with the volume of water consumed.

Legal or Equitable Owner through Manager [No change in text.]

Master bill means the bill received by the *submeter operator* from the City of San Diego or other utility retailer.

Service Connection through Shut Off Valve [No change in text.]

Submeter means a device for recording the volume of water consumed in each residential unit in a multi-family residential property that is owned or operated by the *submeter operator*.

Submetered consumer means any person who receives water through a *submeter* and is responsible to pay a *submeter operator* for *utility services*.

Submeter operator means a *consumer* who has an account with the City of San Diego or other utility retailer for *utility service*, and owns or manages a multi-family residential building with a separate *submeter* for each residential unit.

Submeter system means any system for measurement of the volume of water consumed by the occupants of each individual residential unit through the use of water *submeters*.

Utility service means separately or in any combination, water service, sewer service, and storm water service.

Variable charges means the charges in the *master bill* that vary depending on the volume of water consumed.

Water System

[No change in text.]

Section 2. That Chapter 6, Article 7, Division 6 of the San Diego Municipal Code is created by adding Sections 67.0601 through 67.0608.

§67.0601 Purpose and Intent

This Division is adopted to encourage water conservation in multi-family residential and mixed-use buildings by requiring the use of water *submeters* for individual residential units. Billing individual residential units based on the actual amount of water consumed in the unit will create a financial incentive for residents of multi-family residential units to conserve water.

§67.0602 Application

- (a) This Division applies to multi-family residential and mixed-use buildings where *submeters* have been installed to measure water consumption by individual residential units. This Division does not apply to mobile home parks or to residential units designated as affordable housing pursuant to a recorded regulatory agreement with a governmental agency.
- (b) Nothing herein shall be construed to limit or alter any existing regulations related to testing and oversight of *submeters* by the California Department of Food and Agriculture, Division of Measurement Standards.

§67.0603 Submeter Billing

- (a) Every *submeter operator* shall bill each *submetered consumer* either monthly or bi-monthly for *utility service* based on water consumption recorded by the *submeters*.
- (b) The *submeter operator* shall bill each *submetered consumer* a portion of the *fixed charges*, calculated by dividing the total *fixed charges* equally among the total number of *submetered consumers* and non-residential units without *submeters*, if any, which do not receive a separate *master bill*.
- (c) The *submeter operator* shall bill each *submetered consumer* for *variable charges* at the same rate charged in the *master bill*. In the event a *submeter* reading is unavailable, the *submeter operator* shall bill the *submetered consumer* based on a reasonable estimate of water consumption.
- (d) The *submeter operator* may charge an administrative fee for the actual third party costs of reading *submeters* and providing billing services, up to a maximum of \$4.00 per *submetered consumer* per month. The maximum administrative fee shall increase by \$0.25 on January 1, 2011 and by \$0.25 every three years thereafter.
- (e) The *submeter operator* may charge a *submetered consumer* a late fee not to exceed \$10.00 per billing cycle in the event that the utility bill is not paid in full prior to the due date, which shall be no less than 19 days following the date of mailing or delivery of the bill.

- (f) This Division shall not preclude a *submeter operator* from paying some or all of the cost of *utility service* for a *submetered consumer* as an incentive to attract or retain tenants. While such an incentive is in effect, the *submeter operator* shall continue to provide each *submetered consumer* with a monthly or bi-monthly *submeter* bill pursuant to this Division, reflecting a credit for the portion of the bill paid by the *submeter operator*.

§67.0604 Contents of Submeter Bills

All utility bills prepared by a *submeter operator* pursuant to this Division must include all of the following itemized information:

- (a) The total amount due, separated into *fixed charges* and *variable charges*.
- (b) The beginning and ending *submeter* readings with the dates of the *submeter* readings.
- (c) The total amount of the *master bill*, including the total *fixed charges* and the total *variable charges*.
- (d) Any administrative fees or late fees being charged.
- (e) A statement that the bill is not from the local utility.
- (f) The name of the local utility providing the *utility services*.
- (g) Name of the entity preparing the *submeter* bill.
- (h) A toll free telephone number for inquiries and questions.
- (i) In situations where *submeter* readings cannot be obtained, a statement that the bill was estimated. In no event shall a *submeter* reading be estimated for more than three consecutive months.
- (j) The date the bill is due.

- (k) Any past due amounts.

§67.0605 Rental Agreements

All rental agreements that require tenants to pay for *utility service* in a multi-family residential building with a *submeter system* shall contain all of the following information:

- (a) A description of any administrative fees or late fees that will be assessed.
- (b) The name of the *submeter* billing provider (if any) that will be providing the *submeter* billing service as of the time the rental agreement is signed.
- (c) A specific reference to this Article.
- (d) A description of how *submeter* bills are calculated, including how *fixed charges* and *variable charges* are apportioned in pursuant to Section 67.0603.

§67.0606 Records

Submeter owners shall retain the *master bill* and copies of all *submeter* bills for at least one year after the date of the bill, and make such records available at the request of a *submetered consumer* upon three business days notice, either electronically or on paper, in addition to information about the *submeter system* that will allow the individual *consumer* to verify his or her charges. Nothing herein is intended allow a *submetered consumer* to obtain a copy of a *submeter* bill of another *submetered consumer*.

§67.0607 Violations

It is unlawful to violate any mandatory provision of this Division. Any violation that continues over more than one billing period of the *master bill* is considered a separate violation for purposes of enforcement.

Section 4. That Chapter 14, Article 7, Division 4 of the San Diego Municipal Code is amended by adding Section 147.0410. This section shall not apply to applications for development received by the City prior to the effective date of this ordinance:

§147.0410 Water Submeters

(a) Notwithstanding Section 147.0402, water *submeters* shall be installed in the following types of *development* to provide for the measurement of the volume of water used in each *dwelling unit*:

- (1) New *multiple dwelling units* with three or more *dwelling units*.
- (2) Existing *multiple dwelling units* with three or more *dwelling units* where the entire interior potable water supply piping is being replaced.

(i) This subsection does not apply to existing *multiple dwelling units* whose individual units are served by more than one cold water riser and one hot water riser system.

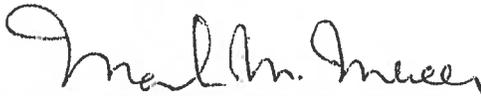
(b) Every water *submeter* shall be installed in accordance with Title 4, Division 9 of the California Code of Regulations, and such that the primary indicator or remote reader may be easily accessed and read by the occupant of the *dwelling unit*, and read by the owner or manager of the *multiple dwelling unit* without entering the *dwelling unit*.

- (c) Water *submeters* installed pursuant to this Section must be certified for use for commercial purposes pursuant to Section 12500.5 of the California Business and Professions Code, or any subsequent amendments.
- (d) For *development of dwelling units* designated as affordable housing pursuant to a recorded regulatory agreement with a governmental agency, *dwelling units* shall be pre-plumbed for water submeters. The requirement of this Section to install a water *submeter* shall only apply when a *dwelling unit* is no longer designated as affordable housing.

Section 5. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been available to the City Council and the public a day prior to its passage.

Section 6. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By 
Mark M. Mercer
Deputy City Attorney

TCZ:MMM:ca
02/04/10
Or.Dept: Water
O-2010-43
MMS #9248

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor