



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: January 14, 2010 **REPORT NO. PC-10-001**

ATTENTION: Planning Commission, Agenda of January 21, 2010

SUBJECT: WATER SUBMETERING ORDINANCE

REFERENCE: N/A

**OWNER/
APPLICANT:** N/A

SUMMARY

Issue(s): Should the Planning Commission recommend to the City Council adoption of the proposed Water Submetering Ordinance (Ordinance) as approved by the Natural Resources & Culture Committee to require the installation of water submeters in new multi-family residential and mixed-use buildings, as well as in existing multi-family residential and mixed-use buildings meeting specific criteria or the ordinance as modified by the Development Services Department?

Councilmember Emerald's Recommendation:

Recommend that Council **adopt** the Water Submetering Ordinance with the Development Services Department's modifications.

Staff Recommendation:

Recommend that Council **adopt** the Water Submetering Ordinance with the following modifications: (1) require existing buildings to submeter when replacing the entire interior potable water supply piping [see section 147.0410(a)(2)]; and (2) require all existing buildings to submeter when replacing the entire interior potable water supply piping except for those buildings whose individual units are served by more than one cold water riser and one hot water riser system. [See 147.0410(a)(2)(i)]

Natural Resources & Culture Committee: On October 7, 2009, the Natural Resources & Culture Committee voted 4-0-0 to approve, with modifications to: 1) include existing units where the potable water supply system is constructed to comply with the California



Plumbing Code or later editions that include individual shutoff valves to the units' hot-and-cold water supply; 2) include units designed with a looped piping system where the cumulative amount of interior potable water supply piping is replaced within a five year period exceeds 65 percent of the overall piping in the building, and 3) exempt buildings where supply is distributed vertically.

Environmental & Technical Subcommittee of the Independent Rates Oversight

Committee: On November 2, 2009, the Ordinance was presented to the Environmental & Technical Subcommittee of the Independent Rates Oversight Committee as a courtesy, no vote or recommendation was required or obtained.

Community Planners Committee: On November 24, 2009, the Community Planners Committee voted 22-3-2 to recommend approval. The committee suggested that the submeter operator be required to relay all water conservation notices by the city to the submeter consumer.

Technical Advisory Committee and the Code Monitoring Team: On December 8, 2009, the Ordinance was presented to the Technical Advisory Committee and Code Monitoring Team. Both groups continued the discussion to January 13, 2010. Their recommendations will be presented at the Planning Commission hearing.

Environmental Review: The project proposes amendments to the City of San Diego Municipal Code, and these amendments would not result in the potential for a significant effect on the environment. Therefore, this project is exempt from CEQA pursuant to Section 15061(b)(3) of the State CEQA Guidelines: General Rule. This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on December 15, 2009, and the opportunity to appeal that determination ended December 30, 2009.

Fiscal Impact Statement: Development Services staff analyzed the Ordinance's potential fiscal impacts on both the City and project applicants. The ordinance proposes mandating submetering water supply in the following types of developments:

- All new multi-family buildings
- Existing buildings, triggered when 65 percent of interior potable water piping is replaced over a five-year period. Two potential scenarios and their fiscal impacts are discussed along with an alternative proposed by Development Services.
- Existing buildings designed to comply with the 1998 California Plumbing Code or later editions of such code that include shutoffs to the hot and cold systems serving each unit

Each of these is evaluated below for its potential fiscal impact.

New construction

Minimal fiscal impact is anticipated for new multi-family development. Current reviews and inspections can be expanded to include the minor additional effort of verifying that

submeters exist. Plumbing plans are required for new multi-family construction. Permit fees collected upon issuance of the Plumbing Permit will recover the cost of additional inspection time associated with the installation of submeters.

The cost of installation for project applicants can vary widely, depending on the number of units and the components involved. For example, in new construction the cost may range from \$150 to \$300 per unit. Costs may increase if submeters are installed as part of a retrofit project.

Retrofit of existing multi-family developments

Section §129.0403 of the Municipal Code requires a plumbing permit and Section §129.0203 requires a Building Permit due to the value of structural alterations and replacements required to access concealed piping. Staff analyzed the potential fiscal impact of requiring existing multi-family buildings to submeter in the following three scenarios:

- **Scenario 1:** Submetering required once 65 percent of interior potable water piping is replaced over a five-year period
- **Scenario 2:** Submetering required once 65 percent of interior potable water piping is replaced over a five-year period – self-certification option
- **Staff Alternative:** Submetering required when 100 percent of interior potable water piping is replaced in one project – staff-recommended alternative to current Ordinance language

In the event that recordation of a Condominium Conversion map requires submetering verification of a 65% or more alteration of the existing potable water piping distribution system, additional review costs will be passed to the applicant due to the need to verify whether compliance was accomplished as a part of an approved final inspection of a plumbing permit

Scenario 1: Existing building where more than 65% of the potable water supply piping is replaced in total over a five year period.

Fiscal impact to applicant: This scenario is expected to impose additional significant costs associated with the preparation of plumbing plans indicating the quantity of existing piping in a building and the amount of piping to be replaced. The current process allows re-piping to be approved without the submittal of any plans but, in this case, plumbing plans will be required for a review to verify whether the amount of piping meets the 65% threshold. As-built plans often are not available for the plumbing system and, if not accurate, will require the applicant to draft a plumbing plan, which can cost thousands of dollars depending on building size.

The fiscal impact of this scenario may be high for an individual tenant or unit owner who is only proposing to replace a limited amount within an individual unit, due to accumulation of prior work done by others in other parts of the building within a 5 year period. The individual unit owner or tenant will not receive final approval until the entire

building is submetered.

Additional plan review fees will need to be assessed to the permit applicant in order to defray the costs of required plan review. An additional records filing fee will be required to file the approved plans.

This scenario may place a burden on building owners performing plumbing replacement as a part of a repair program when the system is replaced in kind without prior planning for sub-metering. Triggering the 65% threshold may also require re-arrangement of recently replaced piping to accommodate installation of shutoffs and submeters.

Fiscal impact to City: The impact to the Development Services Department is anticipated to be significant due to the costs associated with tracking the amount of pipe replacement over the designated time period.

The tracking process will necessitate reprogramming the Project Tracking System to require the entry of piping amount and percentage and for the system to display the tracked piping amount when a permit is requested at a building. The programming effort must be included into the ongoing workplan for system enhancements and may not be completed prior to summer 2010. Staff estimates the additional programming cost at approximately \$5,000.

Staff anticipates plan review staff will need to be increased to perform additional reviews. An additional ½ of 1 position will be required in the Mechanical Review section.

Scenario 2: Existing construction 65% pipe replacement accumulated over 5 years – self-certification. This scenario would require a modification to the ordinance specifying the applicant shall submit plans that certify that the piping being replaced does not exceed 65% or more of the total piping, and that within the past five year period the amount of piping replaced is less than 65% of the total piping.

Fiscal impact to applicant: The applicant would complete a self certification form certifying that the accumulated pipe replacement has not exceeded threshold amount over the designated time period. If verification or confirmation of self certification by a permit applicant is required, the applicant will incur the same fiscal burden as in scenario number 1. The fiscal impact on an individual tenant or unit owner will also be the same as in scenario number 1.

Fiscal impact to City: The impact to the Development Services Department will be minimal and the cost of inspections will be recovered through permit fees collected. Under this scenario DSD will be enforcing the submeter requirements based on the voluntary disclosure of the construction activity in a building by a permit applicant. As a result, DSD will not incur tracking costs when following this option. Self certification programs typically include an audit option that cannot be accomplished without some method of tracking or recordation. The level of compliance will be difficult to determine and additional audit costs are not determinable.

Staff Alternative: Existing building where 100% of the potable water supply piping is replaced.

Fiscal impact to applicant: The fiscal impacts will be the same as it will be for new construction.

Fiscal impact to City: The impact to the Development Services Department will be minimal and the cost of inspections will be recovered through permit fees collected. A plan review may be required and the cost of the review will be recovered through the plan review fees. It is common for as-built drawings to be prepared especially when involving a major building. No tracking will be required by DSD and submeter installation will be verified as a part of the normal review and inspection process.

Existing construction with shutoffs

The impact to the City is anticipated to be minimal. The Development Services Department would recover its costs through permit fees. The applicant will incur additional costs or potential time delays as billing would not commence until all units are submetered.

Code Enforcement Impact: Following installation, the Public Utilities Department would be responsible for the main water meter only and has no jurisdiction over the submeter system. The California Department of Food and Agriculture, Division of Measurement Standards retains oversight over ensuring the accuracy of individual submeters and billing practices.

Existing multiple dwelling units built pursuant to 1998 CA Plumbing Code or subsequent version, and which have only one cold water connection and one hot water connection serving each individual unit, are also required to submeter under this ordinance. However, this requirement cannot be effectively implemented without a trigger, such as a sale of a unit or building, or a remodel or alteration. A timeline for compliance will be necessary once the requirement to submeter is triggered.

Housing Impact Statement:

The proposed project would have no impact on housing.

BACKGROUND

On May 5, 2009, the City declared a Level 2 Drought Alert, effective June 1, 2009, mandating several behavioral restrictions on water consumption. The City most recently approved an amendment to its Landscape Regulations, which requires a water budget to be calculated for landscape projects in new development projects beginning January 1, 2010.

While the City has enacted these and similar measures and programs to reduce water consumption and maximize the current water supply, most conservation measures focus on reducing landscape irrigation. Little attention is paid to reducing water consumption by multi-

family residents or to creating a financial incentive for multi-family residents to conserve.

According to SANDAG estimates for January 2009, 226,885 or 44.4 percent of a total 510,726 total housing units in the City of San Diego are multi-family units. This percentage is anticipated to increase to 50.27 percent, or 306,655 housing units, in SANDAG's 2030 forecast. Figures obtained from the Public Utilities Department attribute 35.41 percent, or 40,724.83 acre feet/year, of metered water billed for residential units to multi-family consumption in FY 2009.

A submeter is a device for recording the volume of water consumed and is located on the consumer's side of the main water meter, which is owned or operated by the City of San Diego or other utility retailer. Studies demonstrate reductions in water consumption of 15 percent or more after water submeters are installed. According to the National Multiple Family Submetering and Allocation Billing Program Study prepared by Aquacraft Inc. in 2004, water submetering was found to achieve a statistically significant water savings of 15.3 percent. A separate study prepared for the National Apartment Association and National Multi Housing Council in 1999 found an even greater reduction of 18 to 39 percent.

DISCUSSION

Project Description:

The Ordinance concerns water consumed in multi-family residential and mixed-used buildings, including apartment buildings and condominiums.

Two versions of the Ordinance are under consideration. The second version includes modifications suggested by Development Services staff and changes the requirement for existing buildings to submeter when replacing interior potable water supply piping from 65 percent to the entire interior potable water supply piping. Staff proposed these modifications based on the anticipated fiscal impact of this requirement, as discussed in the fiscal impact statement.

Application: Submeters are required to be installed in the following residential units in the NR&C Ordinance:

- New multiple dwelling units with three or more dwelling units
- Existing multiple dwelling units with three or more dwelling units with a horizontal loop potable water system where more than 65 percent of interior potable water supply piping is being replaced within a 5-year time span
- Existing multiple dwelling units built pursuant to 1998 CA Plumbing Code or subsequent version and which have only one cold water connection and one hot water connection serving each individual unit

With regard to condominium conversions, submeters must be installed where more than 65 percent of interior potable supply piping is being replaced. Residential units designated as affordable must be pre-plumbed for water submeters and are required to install water submeters only when a residential unit is no longer designated as affordable. The ordinance does not apply to mobile home parks.

Application: Submeters are required to be installed in the following residential units in the Development Services Modified Ordinance:

- New multiple dwelling units with three or more dwelling units
- Existing multiple dwelling units with three or more dwelling units with a horizontal loop potable water system where the entire interior potable water supply piping is being replaced. An exception is made for dwellings whose individual units are served by more than one cold water riser and one hot water riser system.

The City Attorney's Office removed the unnecessary condominium conversion reference because the ordinance as amended covers condominium conversions that are re-plumbed.

Billing: Each customer will be billed at a monthly or bimonthly rate, based on recorded water consumption. There will be two charges: fixed and variable. Fixed charges include the base fee and will be determined by calculating the equal share among the total number of submetered customers and non-residential units without submeters. Variable charges include the total amount of water consumed and each unit's billed cost will be based on individual water consumption as measured by the unit's submeter and calculated at the same rate charged in the master bill.

An administrative fee may be charged for third party costs up to \$4.00 per submetered customer per month. This maximum fee shall increase by \$0.25 on Jan 1, 2011 and by \$0.25 every three years thereafter. Late fees may be charged and cannot exceed \$10.00 per billing cycle. Operators can pay some or the entire charged amount as an incentive to attract or retain tenants, but must still provide a billing statement to each submetered customer.

Consumer Protection: The submeter operator must retain copies of all master and submeter bills for a period of at least one year. Submeter operators are required to make these records available at the request of any tenant. Rental agreements must provide information on the submetering ordinance and describe the billing process.

Enforcement: The City of San Diego Development Services Department would ensure compliance with the Ordinance through the building process. Following installation, the Public Utilities Department would be responsible for the main water meter only and has no jurisdiction over the submeter system. The California Department of Food and Agriculture, Division of Measurement Standards retains this responsibility and has oversight over ensuring the accuracy of individual submeters and billing practices.

Submeters must be certified for use for commercial purposes by Section 12500.5 of the California Business and Professions Code. The primary indicators or remote readers must be easily accessible and readable by the occupant of the submetered dwelling unit and also able to be read by the submeter operator without a need to enter the unit.

Conclusion:

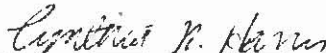
Councilmember Emerald recommends that the Planning Commission recommend to the City Council approval of the Water Submetering Ordinance as modified by Development Services in order to effectively create a financial incentive for residents of multi-family residential units to

conserve water.


ALTERNATIVES

1. **Recommend Council Approve** the Water Submetering Ordinance as approved by the Natural Resources & Culture Committee.
2. **Recommend Council Deny** the approval of the Water Submetering Ordinance, which will eliminate a viable option for conserving water consumed by multi-family developments.

Respectfully submitted,



Cynthia R. Harris
Council Representative



Marti Emerald
Councilmember, District 7

EMERALD/CRH

Attachments:

1. Draft Water Submetering Ordinance -- approved by Natural Resources & Culture Committee
2. Draft Water Submetering Ordinance -- Development Services Department modifications

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 4, DIVISION 5; 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

Terms defined in Chapter 6, Article 7, Divisions 1, 2, 3, 4, 5 and 6 are indicated by italics. For purposes Chapter 6, Article 7, Divisions 1, 2, 3, 4, 5 and 6 the following terms are defined:

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 of a multi-family residential property that is owned and 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 unit property 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 charge 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 in the 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 3. That Chapter 14, Article 4, Division 5 of the San Diego Municipal Code is amended by adding new subsection (g) to Section 144.0507:

§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* with a horizontal loop potable water system where more than 65 percent of the interior potable water supply piping is being replaced within a five year time span.

(3) Existing *multiple dwelling units* built pursuant to the 1998 California Plumbing Code or any subsequent version and has only one cold water connection and one hot water connection serving each individual unit.

(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 the California Business and Professions Code.
- (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
12/14/2009
Or.Dept: Water
O-2010-43

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

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 Definitions

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
12/11/2009
Or.Dept: Water
O-2010-43

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

