

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 Definitions

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

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

Submeter means a device for recording the volume of water consumed that is located on the *consumer's* side of the water meter owned or operated by the City of San Diego or other utility retailer.

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 or mixed -use 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 any combination of 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.

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 each individual residential unit. 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 each individual residential unit. 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 owner* 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(ies) 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 Division.
- (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:

§144.0507 Development Regulations for Condominium Conversions

Prior to final map approval, to the satisfaction of the City Engineer, the following improvements shall be completed [unchanged]:

[Subsections (a) through(f) unchanged]

- (g) Water Submeters - Water submeters shall be installed where more than 65 percent of the interior potable water supply piping is being replaced, in accordance with Section 147.0410.

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 consumed by the occupants of 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 Section 12500.5 of the California Business and Professions Code.
- (d) For *development* of residential units designated as affordable housing pursuant to a recorded regulatory agreement with a governmental agency, residential units shall be pre-plumbed for water submeters. The requirement of this Section to install a water submeter shall only apply when a residential 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
09/29/2009
Or.Dept: Water
O-2010-xx

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