



Agenda Item #: _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Cohen and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Jim Arndt, Director of Public Works
Raul Saenz, Utilities Manager

DATE: May 19, 2009

SUBJECT: Consideration of an Ordinance to Revise Chapter 7.44 – Water Conservation – of the City of Manhattan Municipal Code

RECOMMENDATION:

Staff recommends that the City Council waive formal reading and introduce Ordinance No. 2122 which will revise Chapter 7.44 of the City of Manhattan Beach Municipal Code to increase water conservation efforts.

FISCAL IMPLICATION:

\$10,000 has been proposed for Water Conservation Public Outreach. Funds are available in the Water Operating Budget.

BACKGROUND:

In November, 2008, the City Council directed the Environmental Task Force - Water and Storm Water Sub-Committee (WSWS) to provide recommendations to revise Chapter 7.44 - Water Conservation - of the City's Municipal Code, which was last revised on March 19, 1991. This direction was given in response to:

1. The need for Californians to permanently alter their water use patterns and habits consistent with a region prone to drought conditions, and
2. The California Department of Water Resources warnings that the State of California is headed toward conditions of long term drought.

The WSWS presented its recommendations to the City Council for consideration on March 17, 2009. The City Council voted to move forward with most of the WSWS's recommendations. The City Council deferred a decision on those Permanent Behavior recommendations that would be implemented over the next five years and may financially impact local businesses until they were quantified and approved by Council. The recommended Water Ordinance includes these provisions and cost information is contained in attached Table 1. If after review of cost information Council still wishes to delete the Permanent Behaviors to be implemented over the next five years, then Section 7.44.030, Subsections e-2, f and h would be excluded. These sections pertain to a call for restaurants, car washes, laundromats and hotels to retrofit their

establishments with water efficient appliances within five years after adoption of the Water Conservation Ordinance.

Discussion:

The WSWS collaboratively conducted extensive research of progressive Water Conservation Ordinances currently in effect in various Southern California cities. Compilation of novel and innovative elements from their research led to water conservation recommendations that reflect an appropriate and measured response to a drought prone Southern California region. The revised Water Conservation Ordinance is herewith presented as three key elements – Permanent Water Conservation Requirements, Drought Restrictions, and Penalties and Remedies:

I. 7.44.030 PERMANENT WATER CONSERVATION REQUIREMENTS

Upon adoption of the Water Conservation Ordinance, these water conservation practices become permanently activated, regardless of whether or not a drought is officially in effect. The intent of the “Permanent Behaviors” is an acknowledgement that Southern Californians reside in a climatic region that is perpetually subject to drought, requiring water use behaviors that promote sustained efforts of water conservation. The elements of the Ordinance are summarized as follows, with elements of Subsections e-2, f and h involving estimated costs that Council directed Staff to ascertain for consideration (See Table 1):

a.) Landscape.

1. Watering Hours.

No lawn or landscape area shall be spray irrigated between the hours of 9 A.M. and 6 P.M. on any day. This subsection shall not apply to any drip irrigation system maintenance, leak repair or new planting of low water usage plants or if reclaimed water is utilized as permitted by law.

2. Irrigation Overspray and Runoff.

Water shall not spray or flow to any impermeable private or public surface including but not limited to walkways, driveways, sidewalks, alleys, streets, or storm drains

3. Water Drift.

No sprinklers, fountains or other water features shall be operated when winds are so high as to create water drifting or wasting.

4. Over-Irrigation.

It is prohibited to water or irrigate lawns, turf or other landscape beyond saturation causing runoff or flow to any impermeable private or public surface, including, but not limited to walkways, driveways, sidewalks, alleys, streets, or storm drains.

5. Irrigation During Rain.

It is prohibited to water or irrigate any landscaping during or within 24 hours of measurable rainfall.

b.) Cleaning.

No person shall:

1. Use water to wash, clean or clear any sidewalks, streets, walkways, patios, driveways, alleys or parking areas, whether paved or unpaved, with a hose connected to a domestic water source unless through use of a water broom. Exception: Pressure washing may be permitted.

2. Wash or clean with water any vehicle, including, but not limited to any automobile, truck, van, bus, motorcycle, boat or trailer, whether motorized or unmotorized, except by use of a hand-held bucket or similar container or a hose equipped with a positive action quick release shutoff valve or nozzle. This subsection shall not apply to any commercial car washing facility, which utilizes a recycling system to capture or reuse water.

c.) Water Features and Water Recreation Facilities.

No person shall:

1. Fill any water feature such as a fountain, pond, lake or water display unless the water feature is constructed with a water recycling system.
2. Fill any water recreation facility such as a hot tub, spa, permanent swimming or wading pool unless the water recreation facility is constructed, installed or equipped with a cover to reduce water loss due to evaporation..

d.) Waste, Ponding and Leaks.

No person shall:

1. Cause, permit or allow water to leak from any exterior or interior pipe, hose or plumbing fixture of any kind whatsoever.
2. Cause, permit or allow water to flow from any source on private or public property into gutters, streets, alleys or storm drains except as a result of rainfall or excessive groundwater from a private sump pump or from a non-potable source of water.
3. Cause, permit or allow water from any source to pond on private or public property except as a result of rainfall.
4. Cause, permit or allow water to flow from any source on private or public property without beneficial use.

e.) Eating and Drinking Establishments.

1. All eating and drinking establishments of any kind whatsoever including, but not limited to, any restaurant, hotel, cafe, cafeteria, bar or club, whether public or private, shall only provide drinking water to any person upon receipt of an express request.
2. All food service businesses shall install water conserving pre-rinse nozzles.

f.) Hotels and Motels.

All hotels, motels and bed and breakfast establishments shall provide customers the option of choosing not to have towels and linens laundered daily. Each establishment shall prominently display notice of this option in each bathroom and sleeping room using clear easily understood language. Within five years from the effective date of this ordinance, July 1, 2009, all guest room toilets shall be replaced with the best available technology low flow toilets.

g.) Carwashes.

Any new carwash system shall have a water recirculation system. Within five years from the effective date of this ordinance, July 1, 2009, all existing carwash systems shall have installed water recirculation systems.

h.) Commercial Establishments in General.

All nonresidential buildings in the City shall, within five years from the effective date of this ordinance, July 1, 2009, replace all public toilets and urinals with best available technology low flow toilets and urinals and shall install water efficient dishwashers and washing machines.

i.) Hoses.

No person shall allow water to flow freely from a hose that is not equipped with a positive action quick release shutoff valve or nozzle.

j.) Exceptions.

The provisions of this Section are not applicable to the uses of water which are necessary to protect public health and safety or for essential governmental services, such as police, fire and other similar emergency services.

II. 7.44.040 DROUGHT RESTRICTIONS

Drought Stages 1 through 5 are intended to coincide with and be automatically triggered by Metropolitan Water District's declared Drought Stages. The City's Drought Stages 1 through 4 would call for various water use behaviors designed to curtail water consumption and follow MWD Stages 1 through 4. City Stage 5 corresponds to MWD Stages 5 through 10. Drought Stages and restrictions are successive and additive as follows:

a.) Stage 1 Water Shortage

When the Metropolitan Water District implements its Stage 1 Shortage allocation reduction:

1. Landscape irrigation using potable water shall be limited to no more than fifteen (15) minutes per watering day;
2. Landscape watering with potable water shall be limited to three (3) times per week on Monday, Wednesday and Saturday nights after 6 P.M. through 9 A.M. the following morning.

b.) Stage 2 Water Shortage

When the Metropolitan Water District implements its Stage 2 Shortage allocation reduction:

1. No landscape watering with potable water unless a timed sprinkler system is installed or watering is done with a handheld device.
2. Landscape watering with potable water shall be limited to two (2) times per week on Wednesday and Saturday nights after 6 P.M. through 9 A.M. the following morning.

c.) Stage 3 Water Shortage

When the Metropolitan Water District implements its Stage 3 Shortage allocation reduction:

1. Washing of vehicles is prohibited except at commercial car washes or by mobile high pressure/low volume commercial services;
2. Landscape watering with potable water shall be limited to one (1) time per week on Wednesday nights, after 6 P.M. through 9 A.M. the following morning.

d.) Stage 4 Water Shortage

When the Metropolitan Water District implements its Stage 4 Shortage allocation reduction:

1. Home reverse osmosis treatment units and water softeners shall be disconnected or turned off;
2. Watering of nonpublic playing fields with potable water is prohibited;
3. Landscape watering with potable water shall be limited to one (1) time per week on Wednesday nights after 6 P.M. until 9 A.M. the following morning only drip irrigation or hand held hoses are permitted.

e.) Stage 5 Water Shortage or above

When the Metropolitan Water District implements its Stage 5 through 10 Shortage allocation reduction:

1. Filling/topping off of residential swimming pools or spas with potable water is prohibited.
2. Landscape irrigation with potable water is prohibited except with a watering can using water reclaimed from indoor use;
3. Any additional water conservation measures adopted by the Director of Public Works deemed necessary for the preservation of public health, safety and welfare.

III. 7.44.050 PENALTIES AND REMEDIES

Noncompliance with the Water Conservation Ordinance will subject water user violators to escalating levels of fines.

- a) Violation of this section shall constitute an infraction and shall be punishable as described in Section 1.04.010(B) of this Code. Any offense, which would otherwise constitute an infraction, shall be deemed a misdemeanor if a defendant has been convicted of two (2) or more prior violations of this chapter within the twelve (12) month period immediately preceding the commission of the offense. For this purpose, a bail forfeiture shall be deemed to be a conviction of the offense charged. Each day that a violation occurs shall constitute a separate offense.
- b) In addition to any other surcharge or penalty as may be provided for in this Chapter or Code, any customer who fails to comply with any provision of Section 7.44.030 or 7.44.040 may be assessed a surcharge of seventy five dollars or two hundred percent of the customer's total water bill for the most recent billing period, whichever is greater.
- c) It shall constitute a misdemeanor punishable by a fine not to exceed five hundred dollars or by imprisonment for a period not to exceed six months or both, for any person to knowingly misrepresent any material fact to any employee, agent or representative of the City in any attempt or effort to circumvent or otherwise diminish the effectiveness of any of the requirements imposed by any part of this Chapter.
- d) A violation of any provision of this Chapter is declared a public nuisance and the City Attorney is authorized to abate such violation(s) by means of a civil action.
- e) The penalties and remedies established by the Chapter shall be cumulative.

Public Outreach

The Water Conservation Ordinance will serve the City as a platform for legal enforcement and cost recovery purposes. However, research and discussions with Cities that manage successful water conservation programs have demonstrated unequivocally that community outreach education programs and solicitation of community participation regarding the need to conserve water establishes a culture of environmental awareness and responsibility that surpasses the influence of the law in effectiveness. In that context, the WSWS's next task is to develop a plan that includes various elements of:

- **Consumer education through the City website**
 - Drought Status – Link to the MWD, Department of Water Resources,
 - Water Saving Tips – Link to the California Urban Water Conservation Council, West Basin MWD, Water Replenishment District
 - Tours of Water Reclamation Plants – Offered by the West Basin MWD
 - Schools – Offered by West Basin MWD
 - Maintain a Water Awareness booth at City events
 - Information on Rebates for Water Saving Devices - Offered by West Basin MWD ,
 - Information Regarding Consumer Rebates for Water Efficient Appliances - Offered by West Basin MWD
 - Information on Home and Landscape Water Audits – Link to the California Urban Water Conservation Council.
- **Media**
 - Mailings – Provide printed water conservation messages as billing envelope stuffers, directly on face and back of envelope.
 - Local journals – Take out advertisements with water conservation themes.
 - City-wide Newsletter; June 2009 issue will provide lead article outlining our Water Conservation Ordinance.
- **Enforcement**
 - Ordinance
 - Letters in tone ranging from friendly observations of water wasting practices to severe language that evokes Ordinance penalties.
 - Anonymous Hotlines
 - CRM (Citizen Request Management)

CONCLUSION:

Permanent behavior changes in water use patterns and habits consistent with a region prone to drought conditions are needed to address the California Department of Water Resources warnings that the State of California is headed toward conditions of long-term drought. Accordingly, Staff recommends that the City Council adopt all of the recommended provisions offered by the WSWS for revision of Chapter 7.44 – Water Conservation – of the City of Manhattan Beach Municipal Code.

Table I
Permanent Water Conservation Requirements
Business Appliance Estimated Retrofit Costs and Water Savings

Pre-rinse Spray Valve (Subsection e-2)

\$600 per unit.

- **Annual Water Savings = 62,050 gallons/year** = $(170 \text{ gallons/day} \times 365 \text{ days/yr})$
- **Annual Cost Savings = \$207.39/year** = $(\$2.50/\text{unit} \times 1 \text{ unit}/748 \text{ gallons} \times 62,050 \text{ gal/yr})$
- **Payback Period = 2.9 yrs** = $(\$600/\text{unit})/(\$207.39/\text{yr})$

Low Flush Toilet (Subsections f and h)

\$189 to \$650 per unit @ 1.6 gallons per flush (GPF). Replacing a 5 GPF toilet with a 1.6 GPF results in a water savings is 3.4 gallons per flush. Assume that a public toilet is used 20 times per day, 365 days per year, and the retrofit installation cost is \$200.

- **Annual Water Savings = 24,820 gallons/year** = $(3.4 \text{ GPF} \times 20 \text{ flushes/day} \times 365 \text{ days/yr})$
- **Annual Cost Savings = \$82.89/year** = $(\$2.50/\text{unit} \times 1 \text{ unit}/748 \text{ gallons} \times 24,800 \text{ gallons/yr})$
- **Payback Period = 4.7 to 10.3 years** = $(\$189 \text{ to } \$650/\text{unit} + 200/\text{installation})/(\$82.89/\text{yr})$

Waterless Urinals (Subsection h)

\$244 to \$595 per unit. Installation cost is \$120.

- **Annual Water Savings = 40,000 gallons per year.**
- **Annual Cost Savings = \$133.69/year** = $(\$2.50/\text{unit} \times 1 \text{ unit}/748 \text{ gallons} \times 40,000 \text{ gallons/yr})$
- **Annual cost of cartridge replacement is \$360** = $(12 \text{ cartridges} \times \$30/\text{cartridge})$
- **Payback Period = 2.7 to 5.4 years** = $(\$244 \text{ to } \$595/\text{unit} + \$120/\text{installation})/(\$133.69/\text{yr})$

Commercial Dishwasher (Subsection h)

\$3,865 per unit for a medium sized restaurant washes dishes at a rate of 20 racks (20" x 20") per hour and uses 20 gallons per rack. Annual water usage = $20 \text{ racks/hr} \times 20 \text{ gallons/rack} \times 10 \text{ hrs/day} \times 365 \text{ days/yr} = 1,460,000 \text{ gallons/yr}$

- **Annual Water Savings = 365,000 gallons/year** = $(25\% \times 1,460,000 \text{ gallons})$
- **Annual Cost Savings = \$1,219.92/year** = $(\$2.50/\text{unit} \times 1 \text{ unit}/748 \text{ gallons} \times 365,000 \text{ gallons/yr})$
- **Payback Period = 3.2 years** = $(\$3,865/\text{unit})/(\$1,219.92/\text{yr})$

Commercial Clothes Washing Machines (Subsection h)

\$8,000 per unit for a 40 lb – 60 lb capacity machine. Assume that the average hotel/motel in MB has 50 rooms with a 70% average occupancy, or 35 rooms.

- **Pre-existing water use for linen and towels = 3.1 gallons/lb.**
- **Water efficient washing machine washes = 1.8 gallons/lb**
- **Average linen set = 3 lbs/room/day, or 35 rooms x 3lbs/room/day = 105 lbs/day**
- **Average towel set = 1.5 lbs/room/day, or 35 rooms x 1.5 lbs/room/day = 52.5 lbs**
- **Annual Water Savings = 74,334 gallons/year** = $(105 \text{ lbs/day} + 52.5 \text{ lbs/day}) \times 365 \text{ days/yr} (3.1 \text{ gallons/lb} - 1.8 \text{ gallons/lb})$
- **Annual Cost Savings = \$249.78/year** = $(105 \text{ lbs/day} + 52.5 \text{ lbs/day}) \times 365 \text{ days/yr} \times (3.1 \text{ gallons/lb} - 1.8 \text{ gallons/lb}) \times \$2.50/\text{unit} \times \text{unit}/748 \text{ gallons}$
- **Payback Period = 32 years** = $(\$8,000/\text{unit})/(\$249.78/\text{year})$

ORDINANCE NO. 2122

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, AMENDING MANHATTAN BEACH MUNICIPAL CODE SECTIONS 7.44.030, 7.44.040 AND 7.44.050 AND RESCINDING SECTIONS 7.44.010, 7.44.053, 7.44.056 AND 7.44.090 REGARDING WATER CONSERVATION

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The Manhattan Beach City Council hereby finds as follows:

- a. Judicial rulings have reduced the availability of water from Northern California and the Colorado river to Southern California;
- b. Because of the reduced availability of water it is necessary to change consumption practices in order to reduce water usage on a permanent basis as well as insure that emergency procedures are in place for severe water shortages;
- c. It is therefore necessary and in the best interest of the health and welfare of the residents of Manhattan Beach to amend the City's existing water conservation ordinance to provide for best practices of water conservation to be memorialized as enforceable rules governing the use of water in the City;
- d. This ordinance is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines sections 15061(b)(3), 15307 and 15308.

SECTION 2. Sections 7.44.010, 7.44.053, 7.44.056 and 7.44.090 of the Manhattan Beach Municipal Code are hereby rescinded in their entirety.

SECTION 3. Section 7.44.030, 7.44.040 and 7.44.050 of the Manhattan Beach Municipal Code are hereby amended in their entirety to read as follows:

"7.44.030 Permanent Water Conservation Requirements.

The following water conservation requirements shall apply to all persons within the City of Manhattan Beach:

(a) **Landscape.**

(1) **Watering Hours.** No lawn or landscape area shall be spray irrigated between the hours of nine a.m. and six p.m. on any day. This subsection shall not apply to any drip irrigation system, irrigation system maintenance, leak repair or new planting of low water usage plants or if reclaimed water is utilized as permitted by law.

(2) **Irrigation Overspray and Runoff.** Water shall not spray or flow to any impermeable private or public surface including but not limited to walkways, driveways, sidewalks, alleys, streets, or storm drains.

(3) **Water Drift.** No sprinklers, fountains or other water features shall be operated when winds are so high as to create water drifting or wasting.

(4) **Over-Irrigation.** It is prohibited to water or irrigate lawns, turf or other landscape beyond saturation causing runoff or flow to any impermeable private or public surface, including, but not limited to walkways, driveways, sidewalks, alleys, streets, or storm drains.

(5) **Irrigation During Rain.** It is prohibited to water or irrigate any landscaping during or within 24 hours of measurable rainfall.

(b) **Cleaning.** No person shall:

(1) Use water to wash, clean or clear any sidewalks, streets, walkways, patios, driveways, alleys or parking areas, whether paved or unpaved, with a hose connected to a domestic water source unless through use of a water broom. Exception: Pressure washing may be permitted.

(2) Wash or clean with water any vehicle, including, but not limited to any automobile, truck, van, bus, motorcycle, boat or trailer, whether motorized or unmotorized, except by use of a hand-held bucket or similar container or a hose equipped with a positive action quick release shutoff valve or nozzle. This subsection shall not apply to any commercial car washing facility which utilizes a recycling system to capture or reuse water.

(c) **Water Features and Water Recreation Facilities.** No person shall:

(1) Fill any water feature such as a fountain, pond, lake or water display unless the water feature is constructed with a water recycling system.

(2) Fill any water recreation facility such as a hot tub, spa, permanent swimming or wading pool unless the water recreation facility is constructed, installed or equipped with a cover to reduce water loss due to evaporation.

(d) **Waste, Ponding and Leaks.** No person shall:

(1) Cause, permit or allow water to leak from any exterior or interior pipe, hose or plumbing fixture of any kind whatsoever.

(2) Cause, permit or allow water to flow from any source on private or public property into gutters, streets, alleys or storm drains except as a result of rainfall or excessive groundwater from a private sump pump or from a nonpotable source of water.

(3) Cause, permit or allow water from any source to pond on private or public property except as a result of rainfall.

(4) Cause, permit or allow water to flow from any source on private or public property without beneficial use.

(e) **Eating and Drinking Establishments.**

i). All eating and drinking establishments of any kind whatsoever including, but not limited to, any restaurant, hotel, cafe, cafeteria, bar or club, whether public or private, shall only provide drinking water to any person upon receipt of an express request.

ii). All food service businesses shall install water conserving pre-rinse nozzles.

(f) **Hotels and Motels.** All hotels, motels and bed and breakfast establishments shall provide customers the option of choosing not to have towels laundered daily. Each establishment shall prominently display notice of this option in each bathroom and sleeping room using clear easily understood language. Within five years from the effective date of this ordinance, July 2, 2009, all guest room toilets shall be replaced with the best available technology low flow toilets.

(g) **Carwashes.** Any new carwash system shall have a water recirculation system. Within five years from the effective date of this ordinance, July 2, 2009, all existing carwash systems shall have installed water recirculation systems.

(h) **Commercial Establishments In General.** All nonresidential buildings in the City shall within five years from the effective date of this ordinance, July 2, 2009, replace all public toilets and urinals with best available technology low flow toilets and urinals and shall install water efficient dishwashers and washing machines.

(i) **Hoses.** No person shall allow water to flow freely from a hose that is not equipped with a positive action quick release shutoff valve or nozzle.

(j) **Exceptions.** The provisions of this Section are not applicable to the uses of water which are necessary to protect public health and safety or for essential governmental services, such as police, fire and other similar emergency services.

7.44.040 Drought Restrictions

In addition to the permanent water restrictions set forth in section 7.44.030 above the following restrictions shall be imposed upon declaration by the Metropolitan Water District of a phased water shortage:

(a) Stage 1 Water Shortage:

A. When the Metropolitan Water District implements its Stage 1 Shortage allocation reduction the following restrictions on the use of water from the Manhattan Beach Water System shall be in effect:

(1) Landscape irrigation using potable water shall be limited to no more than fifteen (15) minutes per watering day;

(2) Landscape watering with potable water shall be limited to three (3) times per week on Monday, Wednesday and Saturday nights after 6 P.M..

(b) Stage 2 Water Shortage:

A. When the Metropolitan Water District implements its Stage 2 Shortage allocation reduction the following restrictions on the use of water from the Manhattan Beach Water System shall be in effect in addition to all Stage 1 restrictions:

(1) No landscape watering with potable water unless a timed sprinkler system is installed or watering is done with a handheld device.

(2) Landscape watering with potable water shall be limited to two (2) times per week on Wednesday and Saturday nights after 6 P.M..

(c) Stage 3 Water Shortage:

A. When the Metropolitan Water District implements its Stage 3 Shortage allocation reduction the following restrictions on the use of water from the Manhattan Beach Water System shall be in effect in addition to the Stage 1 and 2 restrictions:

(1) Washing of vehicles is prohibited except at commercial car washes or by mobile high pressure/low volume commercial services;

(2) Landscape watering with potable water shall be limited to one (1) time per week on Wednesday nights after 6 P.M..

(d) Stage 4 Water Shortage:

A. When the Metropolitan Water District implements its Stage 4 Shortage allocation reduction the following restrictions on the use of water from the Manhattan Beach Water System shall be in effect in addition to all Stage, 1, 2 and 3 restrictions:

(1) Home reverse osmosis treatment units and water softeners shall be disconnected or turned off;

(2) Watering of nonpublic playing fields with potable water is prohibited;

(3) Landscape watering with potable water shall be limited to one (1) time per week on Wednesday nights after 6 P.M. only drip irrigation or hand held hoses are permitted.

(e) Stage 5 Water Shortage or above:

A. When the Metropolitan Water District implements its Stage 5 through 10 Shortage allocation reduction the following restrictions on the use of water from the Manhattan Beach Water System shall be in effect in addition to all Stage 1, 2, 3, and 4 restrictions:

(1) Filling of residential swimming pools or spas with potable water is prohibited.

(2) Landscape irrigation with potable water is prohibited except with a watering can using water reclaimed from indoor use;

(3) Any additional water conservation measures adopted by the Director of Public Works or his or her designee deemed necessary for the preservation of public health, safety and welfare.

7.44.050 Penalties and Remedies.

(a) Violation of this section shall constitute an infraction and shall be punishable as described in Section 1.04.010(B) of this Code. Any offense which would otherwise constitute an infraction shall be deemed a misdemeanor if a defendant has been convicted of two (2) or more prior violations of this chapter within the twelve (12) month period immediately preceding the commission of the offense. For this purpose, a bail forfeiture shall be deemed to be a conviction of the offense charged. Each day that a violation occurs shall constitute a separate offense.

(b) In addition to any other surcharge or penalty as may be provided for in this Chapter or Code, any customer who fails to comply with any provision of Section 7.44.030 or 7.44.040 may be assessed a surcharge of seventy-five dollars (\$75) or two hundred percent (200%) of the customer's total water bill for the most recent billing period, whichever is greater. Any customer against whom this fine is assessed shall be entitled to prior notice and may request a hearing regarding imposition of the fine.

(c) It shall constitute a misdemeanor punishable by a fine not to exceed five hundred dollars or by imprisonment for a period not to exceed six months or both, for any person to knowingly misrepresent any material fact to any employee, agent or representative of the City in any attempt or effort to circumvent or otherwise diminish the effectiveness of any of the requirements imposed by any part of this Chapter.

(d) A violation of any provision of this Chapter is declared to be a public nuisance and the City Attorney is authorized to abate such violation(s) by means of a civil action.

(e) The penalties and remedies established by the Chapter shall be cumulative."

SECTION 4. Each and every other provision of Chapter 7.44 shall continue in full force and effect.

SECTION 5. Any provisions of the Manhattan Beach Municipal Code, or appendices thereto, or any other ordinances of the City, to the extent that they are inconsistent with this ordinance, and no further, are hereby repealed.

SECTION 6. This notice shall be published by one insertion in *The Beach Reporter*, the official newspaper of the City, and this ordinance shall take effect and be in full force and operation thirty (30) days after its final passage and adoption.

SECTION 7. The City Clerk shall certify to the adoption of this ordinance; shall cause the same to be entered in the book of original ordinances of said City; shall make a minute of the passage and adoption thereof in the records of the meeting at which the same is passed and adopted; and shall within fifteen (15) days after the passage and adoption thereof cause the same to be published by one insertion in *The Beach Reporter*, the official newspaper of the City and a weekly newspaper of general circulation, published and circulated within the City of Manhattan Beach hereby designated for that purpose.

PASSED, APPROVED, and ADOPTED this 2nd day of June, 2009.

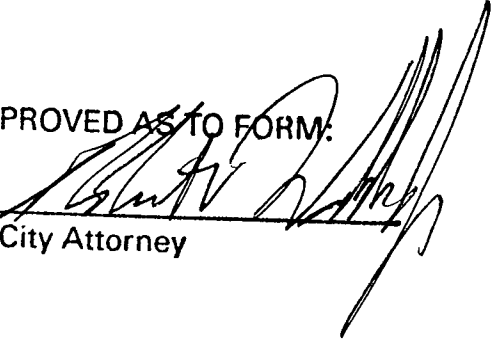
Ayes:
Noes:
Absent:
Abstain:

Mayor, City of Manhattan Beach, California

ATTEST:

City Clerk

APPROVED AS TO FORM:

By 

City Attorney