



Agenda Item #: _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Montgomery and Members of the City Council

THROUGH: Richard Thompson, Interim City Manager

FROM: Laurie Jester, Acting Director of Community Development Department
Carol Jacobson, Building Official

DATE: December 7, 2010

SUBJECT: Consideration of an Ordinance to Amend the Toilet Retrofit Requirements of Title 9 to Allow Exceptions

RECOMMENDATION:

Staff recommends that Council pass a motion to waive further reading, introduce Ordinance No. 2138, and set public hearing for December 21, 2010.

FISCAL IMPLICATION:

There is no fiscal implication associated with the recommended action.

BACKGROUND AND DISCUSSION:

On November 16, 2010, City Council conducted a public hearing to adopt 2010 California construction codes and our City amendments. These will be effective on January 1, 2011. Council directed staff to bring back an amendment to the ordinance for toilet retrofit exceptions as reviewed by the City Council at the November public hearing. These exceptions reflect agreements through the public process as well as meetings with Council, staff and representatives from the South Bay Association of Realtors.

To adopt this ordinance, the procedure is as follows: introduce the title and ordinance, publish notification for two successive weeks, conduct a public hearing and adopt the ordinance. After the Ordinance is introduced tonight and then notification published, the public hearing will be scheduled for the City Council meeting of December 21, 2010.

This proposed ordinances will not have a significant effect on the environment, and is therefore exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061 (b)(3) of the CEQA Guidelines.

Attachment: A. Draft Ordinance No. 2138

ORDINANCE NO. 2138

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, AMENDING CHAPTERS 24 AND 36 OF THE MANHATTAN BEACH MUNICIPAL CODE TITLE 9 TO AMEND TOILET RETROFIT REQUIREMENTS TO ALLOW EXCEPTIONS.

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

SECTION 1. The City Council of the City of Manhattan Beach, California, hereby finds as follows:

- A. The State of California has adopted the California Building Standard Codes that must in turn be adopted or utilized by each city or county. Certain of the provisions of these Codes are inappropriate for use within the City of Manhattan Beach because of unique climatic, geological and topographical conditions prevailing within the City. The California Health and Safety Code Sections 17958, 17985.7 and 17958.5 provide for certain amendments to the California Building Standard Codes provided findings of necessity can be made. The findings are:
 - 1. Adverse climate conditions such as salt fog air and strong winds such as those in existence in the City of Manhattan Beach increase the likelihood of fire spreading (conflagration) from one building to another. Additionally, we must reduce potential impact to climate change through energy efficient materials and sustainable practices.
 - 2. Geological conditions of the City of Manhattan Beach are affected by the nearby locations of earthquake faults that can create tremendous loss of life and structures in the City.
 - 3. Topographical conditions of the City of Manhattan Beach coupled with the density of buildings, limited setbacks, narrow access to buildings, small lots and narrow streets would potentially create a problem for governmental agencies to respond to emergency conditions.
 - 4. There is a need for proposing certain amendments in the California Building Standard Codes because of climatic, geological and topographical conditions.
- B. This project will not have a significant effect on the environment, and is therefore exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061 (b)(3) of the CEQA Guidelines.
- C. On November 16, 2010, City Council conducted a public hearing adopting Ordinance No. 2136 for the 2010 California construction codes and City amendments to be effective on January 1, 2011. Council directed staff to bring back an amendment for toilet retrofit exceptions.
- D. On December 7, 2010, City Council introduced Ordinance 2138 to amend the toilet retrofit requirements, waived further reading, and scheduled it for public hearing on December 21, 2010.
- E. On December 21, 2010, City Council conducted a public hearing regarding the toilet retrofit amendments and approved adding the toilet retrofit exceptions to the Manhattan Beach Municipal Code.

SECTION 2. Chapter 9.24 of Title 9 of the Manhattan Beach Municipal Code is hereby **amended for the climatic findings above** as follows:

Chapter 24. REPORT OF RESIDENTIAL BUILDING RECORDS

9.24.040 shall be amended for the climatic findings above to add:

Toilet Retrofit requirements upon sale of residential real property. All existing residential buildings shall, at the time of sale before change of ownership, be retrofitted, if not already so, with high efficiency toilets, that meet the most current U.S. Environmental Protection Agency Water Sense program requirements, with a maximum ~~minimum~~ standard of ~~at least~~ 1.28 gallons per flush. See also Chapter 9.36.110 Water Efficiency. Retrofits shall be in accordance with the toilet replacement procedure of the Community Development Department. Exceptions to this requirement shall be ~~listed in the toilet replacement procedure or as determined by the Director of Community Development Department as follows:~~

1. Toilets with prior valid Toilet Retrofit Certificates
2. When a change of ownership occurs as a result of:
 - a. Foreclosure
 - b. A transfer from one family member or co-owner to another family member or co-owner.
 - c. A decree of dissolution of marriage
3. When Seller and Buyer agree that the Buyer will assume responsibility to retrofit toilets within 180 calendar days from title transfer date. A refundable deposit is required and will be forfeit after said 180 calendar days if no valid Toilet Retrofit Certificate is submitted to the City.
4. When a proposed demolition permit application is submitted within 180 calendar days from title transfer date. A refundable deposit is required and shall be forfeit after said 180 calendar days if demolition permit application is not enacted.
5. When a UL listed or other recognized listing/testing agency retrofit kit is installed that meets the maximum 1.28 gpf standard.
6. Existing Toilets that are 1.6 gallons per flush or less will be exempt until January 1, 2014.
7. Other exemptions as determined by the Director of Community Development.

SECTION 3. Chapter 9.36 of Title 9 of the Manhattan Beach Municipal Code is hereby amended for the climatic findings above as follows:

Chapter 36. SUSTAINABLE GREEN BUILDING PROGRAM AND ENERGY EFFICIENCY STANDARDS

9.36.110 Water Efficiency

Section 4.303.4 of the California Green Building Standards Code is hereby amended for the climatic findings above as follows:

4.303.4 Toilet Retrofit requirements upon sale of residential real property. All existing residential buildings shall, at the time of sale before change of ownership, be retrofitted, if not already so, with high efficiency toilets, that meet the most current U.S. Environmental Protection Agency Water Sense program requirements, with a ~~minimum~~ maximum standard of ~~at least~~ 1.28 gallons per flush. See Chapter 9.24.040 Report of Residential Building Records.

SECTION 4. 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 5. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection,

sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 6. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 7. 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 8. 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 9. 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.

SECTION 10. The City Clerk shall cause a summary of this Ordinance to be published as provided by law. The summary shall be published and a certified copy of the full text of this Ordinance shall be posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall cause a summary to be published with the names of those City Council members voting for and against this Ordinance and shall post in the Office of the City Clerk a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against the Ordinance.

PASSED, APPROVED and ADOPTED this 21st day of December, 2010.

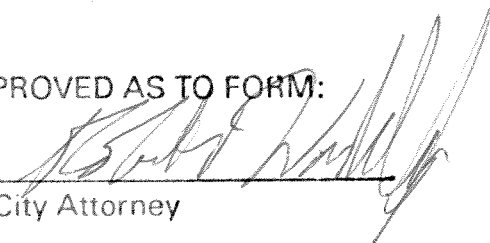
Ayes:
Noes:
Absent:
Abstain:

Mayor, City of Manhattan Beach, California

ATTEST:

City Clerk

APPROVED AS TO FORM:

By 

City Attorney