

ORDINANCE NO. 172075

An ordinance amending in its entirety Article II of Chapter XII of the Los Angeles Municipal Code relating to the conservation of water and limitation of wastewater flow to clarify and update existing language and to provide for appellate procedures through the Department of Water and Power.

THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:

Section 1. Article II of Chapter XII of the Los Angeles Municipal Code is hereby amended in its entirety to read as follows:

ARTICLE II

SEC. 122.00. TITLE AND PURPOSE.

This article shall be known as Water Closet, Urinal and Showerhead Regulations. The Council of the City of Los Angeles, in order to effectively address potential problems concerning existing water supplies and the City's ability to handle ever-increasing wastewater flow in the sewage system, hereby implements a city-wide water conservation program. Insofar as this article restates previously codified regulations on this subject it is the intent of this article to continue those regulations with the same force and effect, as they would have had in the absence of this article, and not to revoke and/or reenact those regulations.

SEC. 122.01. SCOPE.

The provisions of this article shall apply to all residential, commercial, and industrial buildings in the City of Los Angeles that use water in showers, water closets, or urinals, except those buildings which are historical buildings or structures as those terms are used in Section 91.8400 of this Code and except those buildings which the Department of Water and Power pursuant to its Rules has determined should be exempted.

SEC. 122.02. DEFINITIONS.

For the purposes of this article:

(a) "Agreement of sale" shall mean any agreement, reduced to writing, which provides that legal title of any real property shall thereafter be conveyed from one owner to another.

(b) "Building" shall mean any structure having a roof supported by columns or walls, for the housing, shelter or enclosure of persons, animals, chattels or property of any kind..

(c) "Flushometer valve" shall mean any device which discharges a predetermined quantity of water to fixtures for flushing purposes and is actuated by direct water pressure.

(d) "Low consumption water closet" shall mean any water closet that complies with ANSI Standards of ASME A112.19.2M - 1990 and ASME A112.19.6 - 1990 (or as last revised).

(e) "Low-flow Showerhead" shall mean any showerhead that allows a maximum flow rate of 2.5 gallons per minute and meets the National Plumbing Fixture Efficiency Standards which is part of the Energy Policy Act of 1992, Public Law 102-486 (October 22, 1992) and/or the energy efficiency standards as described in Title 20 of the California Administrative Code.

(f) "Multi-family residential building" shall mean any residential building with three or more dwelling units, for which a satisfactory verification of condominium status has not been submitted to the Department of Water and Power.

(g) "Owner" shall mean any person, partnership, association, company, corporation or fiduciary in whom or in which is vested legal title to real property improved with residential, commercial or industrial buildings, or who or which possesses the power to convey legal title to such real property.

(h) "Residential Building" shall mean a building or portion thereof designed or used for human habitation.

(i) "Small Business Operation" shall mean any separately metered commercial or industrial operation which has no urinals and which has no more than two showers and two water closets not equipped with flushometer valves and either complying with California Health and Safety Code Section 17921.3 or capable of functioning properly after being retrofitted.

(j) "Water closet flush-reduction device" shall mean a device, such as a tank dam, that when added to or attached to a water closet, will reduce the amount of water used per flush by at least one-half gallon.

SEC. 122.03. REQUIREMENTS.

(a) Each owner must, by October 13, 1988 or upon the date of becoming an owner, whichever is later, assure that all existing showerheads, water closets and urinals in commercial, industrial and residential buildings comply with the following requirements:

1. All showers must be equipped with low-flow showerheads. This requirement shall not apply to any emergency shower installed for health or safety purposes that cannot safely operate with a maximum flow rate that does not exceed 2.5 gallons per minute.

2. All water closets must be equipped either with flushometer valves which flush with a maximum of three and one-half gallons or with water closet flush-reduction devices. This requirement shall not apply to any water closet that does not use more than an average of three and one-half gallons per flush.

3. All urinals must be equipped with flushometer valves which flush with a maximum of one and one-half gallons.

(b) Any showerhead in a commercial, industrial, or multi-family residential building that does not comply with this section shall be replaced with a low-flow showerhead. Any water closet or urinal in a commercial, industrial or multi-family residential building that does not comply with this section or which does not function properly after being retrofitted in order to comply with this section shall be replaced with a fixture or device in compliance with California Health and Safety Code Section 17921.3.

(c) Costs incurred in complying with this section by the landlord of a rental unit subject to the Rent Stabilization Ordinance (Los Angeles Municipal Code Section 151.00, et seq.) shall not be eligible for a rehabilitation work or capital improvement rent adjustment under the Rent Stabilization Ordinance.

(d) Each owner must upon complying with the requirements of Subsection (a) submit a Certificate of Compliance or Owner-Certified Notice of Compliance to the Department of Water and Power which complies with the requirements of Section 122.06.

(e) In addition to the provisions of Subsection (a), prior to entering into an agreement of sale or contracting for an exchange of any real property improved with residential, commercial, or industrial buildings, or when an escrow agreement has been executed in connection therewith,

prior to the close of escrow, each owner or owner's agent shall:

1. equip all urinals with flushometer valves which flush urinals with a maximum of one and one-half gallons of water per flush;

2. ensure that all showerheads are low-flow showerheads which are in compliance with the energy efficiency standards as described in Title 20 of the California Administrative Code.

3. ensure that all water closets are equipped either with flushometer valves which flush with a maximum of three and one-half gallons or with water closet flush-reduction devices. This requirement shall not apply to any water closet that does not use more than an average of three and one-half gallons per flush.

4. effective January 1, 1999, where the real property which is the subject of the sale has been improved with residential buildings, ensure that all water closets are low consumption water closets.

SEC. 122.04. SURCHARGE FOR VIOLATION OF REQUIREMENTS IN SECTION 122.03.

(a) If within 182 days of the date set for compliance in Section 122.03, an owner of a commercial, industrial or a multi-family residential building fails to comply with the requirements of Section 122.03, the Department of Water and Power shall thereafter charge that owner a ten-percent surcharge on the charges for water used for the property in violation, for each billing period until the owner complies or until the 365th day following the date set for compliance in Section 122.03, whichever occurs first.

(b) If, after 365 days following the date set for compliance in Section 122.03, the owner is still in violation, the Department of Water and Power shall increase the surcharge to twenty-five percent on the charges for water used for the property in violation, for each billing period until the owner complies or until the 547th day following the date set for compliance in Section 122.03, whichever occurs first.

(c) If, after the 547th day following the date set for compliance in Section 122.03, the owner still has not complied with these requirements, then the Department of Water and Power shall increase the surcharge to fifty percent on the charges for water used for the property in violation, for each billing period until the owner complies or until the 729th day

following the date set for compliance in Section 122.03, whichever occurs first.

(d) If, after the 729th day following the date set for compliance in Section 122.03, the owner still has not complied with these requirements, then the Department of Water and Power shall increase the surcharge to one hundred percent on the charges for water used for the property in violation, for each billing period until the owner complies.

(e) Charges collected pursuant to this section shall be deposited in the Water Revenue Fund. All charges collected as surcharges pursuant to this section and deposited in the Water Revenue Fund commencing on and after July 1, 1993, shall be remitted to the City Controller for the City General Fund. Thereafter, all charges collected as surcharges pursuant to this section shall be remitted on a quarterly basis to the City Controller for the City General Fund.

(f) Inclusion in a customer's bill of a surcharge on charges for water used for the property during the billing period shall be deemed a determination by the Department of Water and Power that the surcharge be assessed. Notice of the determination shall be deemed to have been provided to all interested parties on the date of mailing of the bill in which such surcharge is included. Appeals from determinations by the Department of Water and Power pursuant to this Section shall be in accordance with the Rules established pursuant to Section 122.10, except that no appeal may be taken from any determination more than 90 days after the aggrieved party has received notice of the determination, or more than 180 days after the date of the determination, whichever is earlier. In no event shall the City or the Department of Water and Power be required to refund any charges received prior to the date of the determination.

SEC. 122.05. NOTIFICATION.

Prior to entering into an agreement of sale or contracting for an exchange of any real property improved with residential, commercial, or industrial buildings, or where an escrow agreement has been executed in connection therewith, prior to the close of escrow, the owner or owner's agent shall give written notice of the requirements of this article to the buyer. Any seller of property subject to this article shall provide the buyer with confirmation of compliance with the requirements of this article in any agreement of sale for the property between the buyer and seller.

SEC. 122.06. COMPLIANCE.

(a) Each owner of a commercial or industrial building which does

not qualify as a small business operation under Section 122.02(g) and each owner of a multi-family residential building which has more than 10 units shall employ a qualified person, as indicated in one of the categories listed below, to inspect the building or buildings, and, if it is in conformance with the requirements of this article, to file a Certificate of Compliance on a form provided by the Department of Water and Power. The Certificate of Compliance shall be signed by the property owner or the owner's agent and the qualified person who performed the inspection and shall certify that, based on personal knowledge, each water closet, urinal and showerhead in a particular building is in compliance with the requirements of Section 122.03. In addition, at the time of sale of any building described in this paragraph, a new Certificate of Compliance shall be signed by the buyer or buyer's agent and the qualified person who performed the inspection and shall certify that, based on personal knowledge, each water closet, urinal and showerhead in a particular building is in compliance with the requirements of Section 122.03. The following persons are qualified to inspect buildings or buildings and submit Certificates of Compliance:

1. persons who hold valid contractor's licenses issued by the State of California, in the proper classification;
2. persons who hold valid Maintenance Certificates of Registration issued pursuant to the provisions of Section 94.0402 of this Code;
3. persons who hold valid Water Conservation Retrofitter Certifications, provided however that such persons may only submit Certificates of Compliance for multi-family residential buildings which are three or fewer stories in height.

(b) Each owner of a Small Business Operation as defined in Section 122.02(g), after complying with the requirements of this article, shall file, or cause the owner's agent to file, a Certificate of Compliance on a form provided by the Department of Water and Power. The Certificate of Compliance shall be signed by the owner or the owner's agent and shall certify that, based on personal knowledge, each water closet, urinal and showerhead in a particular building is in compliance with the requirements of Section 122.03. No other person's signature is required for submission of this certificate. In addition, at the time of sale of any such Small Business Operation, a Certificate of Compliance on a form provided by the Department of Water and Power shall be signed by both the buyer or buyer's agent and the seller or seller's agent and either by a person listed in Subsections 1, 2, or 3 of Section 122.06(a) above or by a person licensed as a broker or real estate agent by the California. The Certificate of Compliance shall certify that, based on personal knowledge of the person

signing the Certificate, each water closet, urinal and showerhead in a particular building is in compliance with the requirements of Section 122.03.

(c) Each owner of a one or two-family dwelling, or a multi-family residential building with 10 or fewer units, or an individual condominium unit if a satisfactory verification of condominium status has been submitted to the Department of Water and Power, after complying with the requirements of this article, shall file an Owner-Certified Notice of Compliance. This Notice of Compliance is a written statement signed by the owner or the owner's agent on a form provided by the Department of Water and Power which certifies that each water closet, urinal and showerhead in a particular building is in compliance with the requirements of Section 122.03. In addition, at the time of sale of any such dwelling or building, a Certificate of Compliance on a form provided by the Department of Water and Power shall be signed by both the buyer or buyer's agent and the seller or seller's agent and either by a person listed in Subsections 1, 2, or 3 of Section 122.06(a) above or by a person licensed as a broker or real estate agent by the California. The Certificate of Compliance shall certify that, based on personal knowledge of the person signing the Certificate, each water closet, urinal and showerhead in a particular building is in compliance with the requirements of Section 122.03.

(d) The Certificate of Compliance or Owner-Certified Notice of Compliance shall be filed with the Department of Water and Power within 15 days after complying with the provisions of this article.

(e) The provisions of paragraphs (a) through (e) of this section do not apply if a valid Certificate of Compliance has been previously submitted to the Department of Water and Power within one year of the date that the owner acquired title to the property.

(f) A Certificate of Compliance or an Owner-Certified Notice of Compliance may be rejected if the Department of Water and Power determines that the qualified person employed to inspect the work has failed or neglected to comply with the provisions of this article, or that the Certificate or Notice of Compliance contains a false statement of representation, or fails to disclose a material fact.

(g) No person shall charge more than \$25 per dwelling unit for inspecting apartment units and certifying compliance with these

SEC. 122.07. FEES.

The Certificate of Compliance processing fee shall be as follows:

TYPE OF BUILDING	FEE
One-Family and Two-Family Dwellings	\$15.00
All Other Residential, Commercial and Industrial Buildings	
<u>Number of Floors in Building (including basements)</u>	
1 to 3	\$25.00
4 to 9	\$50.00
10 and above	\$75.00 plus \$5.00 per floor above 10 floors

SEC. 122.08. CERTIFICATES OF REGISTRATION AS CERTIFIED WATER CONSERVATION RETROFITTER.

(a) Certificates of Registration as Certified Water Conservation Retrofitters which are current as of the effective date of the ordinance enacting this article or which expired no more than 12 months prior to that same date are hereby renewed. Said Certificates shall thereafter continue to be valid without further application for renewal unless suspended or revoked as set forth herein.

(b) A Certificate of Registration may be suspended or revoked in accordance with the provisions of Article 8 of Chapter IX.

(c) Certificates of Registration are not transferable. Upon the dissolution of a firm, partnership, or corporation or other entity which held a Certificate of Registration, the Certificate shall become void.

(d) Each person holding a valid Certificate of Registration shall display it in some conspicuous location in his or her fixed place of business or, if the person has no fixed place of business, he or she shall carry the Certificate of Registration at all times while doing business as a Water Conservation Retrofitter.

SEC. 122.09. PENALTIES.

It shall be an infraction for any person to violate any provision of this article.

SEC. 122.10. EXEMPTIONS AND APPEALS

The Department of Water and Power shall adopt and promulgate rules by which owners of buildings may apply for exemptions from the requirements of this Article or appeal from surcharges imposed pursuant to Section 122.04. Any appeal from a surcharge made prior to the adoption of such rules shall be pursuant to the provisions of Section 121.11 F of the Los Angeles Municipal Code.

Sec. 2. The City Clerk shall certify to the passage of this ordinance and cause the same to be published in some daily newspaper printed and published in the City of Los Angeles.

I hereby certify that the foregoing ordinance was introduced at the meeting of the Council of the City of Los Angeles MAY 27 1998 and was passed at its meeting of JUN 03 1998.

J. MICHAEL CAREY, CITY CLERK

BY Maria Kooker
Deputy

Approved JUN 15 1998

[Signature]
Mayor

Approved as to Form and Legality

Dated: 5/26/98

JAMES K. HAHN, City Attorney

By [Signature]
ARTHUR B. WALSH
Assistant City Attorney

Council File No. 98-0185