

## 7.16.050 Water Consumption Limits and In-lieu Fees for New Development.

### A. Definitions.

The following definitions shall apply for purposes of administering this Section:

1. **100% Affordable Housing Project.** 100% Affordable Housing Project is defined in Section 9.52.020.0050 of this Code.
2. **Baseline Water Demand.** Baseline water demand means the average water use over the previous five (5) years from the time the first application for any required development approval and/or building permit is submitted to the City. The most recent five-year average of water use according to City records at the proposed development site will be used; where no records exist, the five-year average water usage of water customers in the same water customer class (single-family, multi-family, mixed-use, commercial, industrial, landscape, etc.) with the same meter size will be used.
3. **Director.** Director means the Director of the City's Public Works Department or his or her designee.
4. **New Development.** For purposes of implementing this Section, new development means any of the following:
  - (a) repair, alteration, modification, addition to, or rehabilitation of an existing structure with any plumbing fixture(s), where a demolition will occur in accordance with Section 9.25.030(A)(1)-(2) or any successor thereto.
  - (b) a new structure with any interior plumbing fixture(s).
  - (c) a new or enlarged pool, spa, pond or water feature.
5. **New Water Demand.** New water demand means projected water demand for a proposed new development less baseline water demand at the proposed development site. Water demand shall be determined at the time of the City Building Official's acceptance of plan check submission.

6. **Projected Water Demand.** The total amount of water (potable and non-potable water supplies as defined by Chapter 6 of the California Plumbing Code or any successors thereto) projected for the proposed project site, including uses such as but not limited to drinking, cleaning, industrial and landscaping.

**B. Water Off-Set Requirements.**

1. No person shall be issued a temporary certificate of occupancy or certificate of occupancy, whichever occurs first, for any new development unless:

(a) The new development offsets all increases in new water demand, as follows:

(i) New water demand for new development that constitutes a 100% Affordable Housing Project, including individual units and common spaces that support those units, shall be offset at a ratio of 0.5:1.

(ii) New water demand for all other new development shall be offset at a ratio of 1:1.

(b) The water offsets required by this Section shall be achieved with on-site water efficiency measures unless the Director determines that such efficiency measures cannot be reasonably achieved on-site. In the event that the Director determines that such efficiency measures cannot be reasonably achieved on-site, the applicant for a building permit may satisfy the off-set requirements by:

(i) payment of the in-lieu fee set forth under subsection (F), below; and/or

(ii) performing or undertaking to perform the off-set requirements at an off-site location within the City of Santa Monica. Such work shall be performed at the applicant's sole risk and cost. The criteria for equivalent performance of the off-set requirements at an off-site location shall be approved in writing by the Director prior to commencement of such work. All work performed or undertaken to be performed by the applicant shall be subject to all laws and regulations generally applicable to such work.

- (c) The owner or building permit applicant submits sufficient documentation as determined by the Director to demonstrate that the water offset requirements in this Section can be achieved.

**C. Verification of Water Off-Set Requirements.**

No temporary certificate of occupancy or final certificate of occupancy, whichever is issued first, shall be issued for the new development until -:

1. The on-site or off-site water offset provisions approved by the Director have been installed and demonstrated to be operational; and/or
2. Alternatively, the owner or building permit applicant has paid the in-lieu water off-set fee in accordance with Subsection F.

**D. Implementing Regulations.**

The Director shall adopt written administrative regulations or guidelines that are consistent with and that further the terms and requirements set forth within this Section.

**E. Administrative Fee.**

An administrative fee shall be assessed and paid to the City by the building permit applicant at the time of issuance of the building permit. The administrative fee shall be imposed to cover cost of administering and implementing the water off-set requirements of this Section, and shall be set by City Council resolution.

**F. In-Lieu Water Off-Set Fee.**

1. The water off-set requirements in Subsection B may be satisfied by payment of a one time in-lieu water offset fee, as provided by this Subsection. The fee shall be paid by the owner or building permit applicant, as follows:

50% shall be paid at the time of issuance of the building permit and the remaining 50% shall be paid at the time of the issuance of the temporary certificate of occupancy or certificate of occupancy, whichever occurs first.

2. Funds collected by the in-lieu water off-set fee shall be deposited into a dedicated fund used by the City to reduce new water demand citywide.
3. Payment of the in-lieu water off-set fee shall constitute full satisfaction of the water off-set requirements in Subsection B.
4. The in-lieu water off-set fee shall be non-refundable.
5. Payment of the in-lieu water off-set fee does not represent an obligation of the City to reduce new water demand by any particular means.
6. The in-lieu water off-set fee shall be set by City Council resolution.

**G. Hardship.**

1. The Director may exempt an owner or a building permit applicant from the requirements of Subsection B, upon showing by the owner that the requirements of Subsection B would cause undue hardship.
2. For purposes herein, an “undue hardship” shall be found where imposition of the water off-set requirements would deprive the owner of a development site of all economically beneficial use of that site or otherwise be prohibited by applicable state or federal law.
3. An undue hardship application shall include all information necessary for the Director to make a finding of undue hardship, including but not limited to documentation showing the factual support for the claimed undue hardship.
4. The Director may approve the undue hardship exemption application, in whole or in part, with or without conditions.
5. Any exemption granted by the Director is effective immediately.