

## **New York City Water Board**

### **Conservation Program For Multiple Family Residential Buildings Implementation Guidelines**

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#### **Section 1. Program Overview**

The Conservation Program for Multiple Family Residential Buildings ("Multi-Family Conservation Program") offers owners of multiple family housing consisting of six or more dwelling units, an option to elect, in lieu of metered billing, billing based on a fixed charge per dwelling unit if the owner invests in low-consumption plumbing hardware and fixtures, and cooperates with DEP in conservation efforts in their buildings. The objective of the program is to promote water conservation in multi-family buildings and to give owners of such buildings a measure of control over their water and sewer costs, while at the same time being revenue neutral relative to the water system as a whole and to other customer classes.

Owners are advised that it is the intent of the Board to phase out and discontinue historical and currently existing frontage and flat-rate billing bases effective June 30, 2004. After this date, the only permissible billing bases for multi-family residential buildings consisting of six or more units will be charges determined in accordance with actual consumption based on a meter or charges determined by a fixed charge per dwelling unit in accordance with the Multi-Family Conservation Program as described herein for those properties that qualify. Owners are also advised that any frontage property which has not applied for and met the requirements of the Multi-Family Conservation Program by December 31, 2003, will be converted to metered billing automatically.

As more fully described herein, to be eligible, a property must be residential, consisting

of six or more dwelling units and must be metered. The property also must have any leaks repaired and must have installed low-consumption toilets, faucets and showerheads serving at least 70% of the building's plumbing fixtures. If the property has a central laundry room, washing machines must be of the low-consumption type. If they are not, any common area washing machines must be replaced with low-consumption machines at the next contract award, renewal or extension if such machines are provided by a vendor, or within a five-year period if owned by the building owner.

The program provides that DEP will audit each building's water consumption periodically to ensure that conservation is being achieved and that water usage is being reasonably controlled by the owner. A building's failure to meet reasonable conservation objectives will subject it to increased monitoring and possible enforcement actions. Buildings having substantial increases in water consumption caused by leaks or waste which go unrepaired may subject the property to removal from the program and conversion to metered billing.

In exchange for making an investment in low-consumption plumbing fixtures and repairs, the owner may elect, in lieu of metered billing, to be billed on the basis of a fixed charge per dwelling unit ("fixed charge"). For the fiscal year beginning July 1, 2001 ("FY2002"), the Board will establish the fixed charge at \$424 per dwelling unit. This stated amount will be subject only to an adjustment in proportion to the general change, if any, in metered and/or frontage water and/or sewer rates established by the Board for FY2002. Subsequent to FY2002, the Board may adjust the fixed charge in proportion to any future adjustments to metered and/or frontage water and sewer rates and may adjust the fixed charge to ensure that it continues to be consistent with the Board's objectives of water conservation and revenue neutrality.

The program will be implemented over a period beginning in the fall of 2000 and concluding in July, 2004.

## **Section 2. Definitions**

**Complete Application:** means a written submission to DEP in which the all the information requested on the "MULTI-FAMILY CONSERVATION PROGRAM" application form is provided, that is signed by the owner or managing agent and notarized, and is accompanied by a copy of the Certification of Occupancy. A copy of the laundry room contract showing expiration or renewal date must also be provided if applicable. If the Contact Name on the application form is someone other than the Owner or Managing Agent, an Owner Authorization Letter must be attached as well specifically designating the representative as authorized to submit an application for the program.

**Billable Number of Dwelling Units:** means the number of dwelling units as determined by the Certificate of Occupancy or other acceptable records of the Department of Buildings or the Department of Finance plus the number of low-consumption commercial dwelling unit equivalents, as approved by the Commissioner.

**Water Board:** means the New York City Water Board.

**DEP:** means the Department of Environmental Protection of the City of New York.

**Dwelling Unit Equivalent:** means a low-consumption commercial unit in a building whose water use is primarily for the sanitary use of its employees and is determined to be less than or equal to a residential dwelling unit.

**Commissioner:** means the Commissioner of the Department of Environmental Protection (DEP) of the City of New York, or designee.

**Fixed Charge:** means the flat-rate charge per billable dwelling unit or equivalent per fiscal year.

**Letter of Authorization:** means a document bearing a contemporary date and signed by the owner of a specific property which designates an individual or organization other than the owner to act on the owner's behalf as the owner's authorized representative in connection with preparing and submitting a Complete Application for this Program and selecting a billing basis for the subject property.

### **Section 3. Eligibility and Program Requirements**

#### **3.1 Eligible Properties**

Only residential properties consisting of six or more residential dwelling units are eligible for the program.

- A. Initial eligibility is open to any such building irrespective of whether it is currently subject to metered or frontage billing, or is being billed under the Board's Transition Program or Pre-Transition Program Flat-Rate Charge (formerly known as the Retroactive Transition Program).
- B. Only properties which have been metered to the satisfaction of the Commissioner are eligible. Properties which have not installed appropriate meters will be subject to the surcharge for failing to install a meter as set forth in Part II - Section 3 of the Board's Water and Wastewater Rate Schedule.

#### **3.2 Specific Conservation Requirements**

- A. No property shall be eligible for this program or shall be continued in eligibility which is found to have significant water leaks or waste. The Commissioner in his/her sole discretion shall determine the significance of any water leak(s) and

- whether such leak(s) should affect a property's program eligibility.
- B. **Low-Consumption Plumbing Fixture Requirements:** No property shall be approved for the program unless it shall have installed low-consumption plumbing fixtures as follows.
- i. At least seventy percent (70%) water closets in the building must be low-consumption type (1.6 gallons per flush or less).
  - ii. At least seventy percent (70%) of the showerheads must be of the low-consumption type (no more than 2.5 gallons per minute as measured at the showerhead).
  - iii. At least seventy percent (70%) of the faucets shall flow at 2.5 gallons per minute or less (either through the design of the faucet or by the installation of a "tamper-resistant" aerator).
  - iv. Any building with a central laundry room shall replace its clothes washing machines with models which meet or exceed a 9.5 gallons/cubic foot water efficiency standard. Replacement of such clothes washers shall occur within five years from acceptance into the program if the machines are the property of the owner. If machines are provided by contract, the 9.5 gallons/cubic foot of machine capacity standard shall be required of any contract renewals or any new contract award with a laundry room contract vendor.
  - v. In addition to compliance with the 70% thresholds set forth above, the owner shall replace all fixtures and fittings as described above in any apartment unit that becomes vacant and which does not have low-consumption fixtures.
  - vi. Only replacement parts which are designed for use in the specific low-consumption toilet model that has been installed shall be used in any repairs. Replacement faucets shall be of the washerless type (ceramic disk or cartridge models). DEP shall maintain an advisory lists of products.
- 3.3 Eligibility of Mixed Use Properties**
- A. Mixed use properties with combined residential and commercial use measured by an entire premise (EP) meter may be eligible for the program. The criteria for eligibility is whether the predominant use of the water is residential and whether the commercial use generally can be considered to be equivalent to or less than a typical residential unit.
  - B. In cases where the predominant use of a mixed use property is residential, the Commissioner shall determine whether a commercial unit(s) is such that its expected consumption is less than or equal to a typical residential unit. Each commercial unit so determined will be counted as an additional residential dwelling unit for the purpose of billing.
  - C. A mixed-use property will not be eligible if the predominant use of the property is residential and the Commissioner determines that the consumption of any of the commercial uses are substantially greater than that of a typical residential user. Such tenants include but are not limited to laundromats, food-related businesses,

taverns, medical facilities or other occupancies, which in the Commissioner's judgement, are likely to be consuming substantially more than a residential unit. In such situations, the eligibility of the property will only be approved if each commercial user whose consumption is judged by the Commissioner to be greater than a typical residential unit is separately metered at the owner's expense and billed by DEP for its metered water use.

D. No property whose predominant water use is other than residential will be eligible for this program.

### **3.4 Responsibilities of Owners**

A. Eligibility for this program shall be established only upon the owner's submission of a Complete Application and the approval of such application by DEP as set forth herein.

B. Owners are solely responsible for analyzing their properties and determining which billing method is best suited to their specific circumstances. Neither DEP nor the Water Board is responsible for a decision made by any owner, owner agent or Authorized Representative, to elect either metered billing or billing on the fixed charge per dwelling unit and will not be liable for any financial loss incurred by a choice made by an owner.

C. In order for a property to be continued in eligibility owners must:

- i. allow DEP access to read, test, repair or replace any meters as DEP deems necessary or to install an automatic reading device at DEP's expense;
- ii. allow DEP access to inspect the premises and perform leaks surveys
- iii. promptly repair any water leaks as they occur and are discovered, and as may be identified by DEP.

## **Section 4. Application Procedure**

### **4.1 General**

An owner or his Authorized Representative must file a Complete Application with DEP in order to be approved for billing under this Program. If an Application is being submitted by someone other than an owner, a Letter of Authorization acceptable to DEP must be attached giving that individual or organization authority to select the billing basis. A separate Application and Authorization Letter shall be submitted for each building for which the program is requested.

### **4.2 Complete Application**

DEP may reject any Application which at the time of filing is missing information or documentation, has illegible printing or is not signed or notarized.

### **4.3 Rejected Application**

An Applicant whose Application has been rejected in accordance with 4.2 above may re-file the Application upon inclusion of the information or documentation that DEP previously determined to be missing. If found eligible, the effective date of Program eligibility will be determined based on the date the re-filed Application

was approved.

**4.4 Where to Obtain Application Forms and Where to File Completed Applications**

Applications can be obtained by visiting any Borough Office of DEP or by calling 718-595-7000. Applications may also be found by visiting DEP's website at [www.NYC.GOV/DEP](http://www.NYC.GOV/DEP). Applications must be filed by mail *at the Water Board's designated P.O. Box*.

**4.5 Application Fee**

A non-refundable application fee of \$25 will be charged and collected by DEP to cover the administrative cost of reviewing and resolving each application. The application fee will not be refunded if an incomplete application is rejected, and DEP may in its discretion impose an additional non-refundable \$25 application fee upon resubmission of a previously rejected application.

**4.6 Approved/Rejected Application**

DEP or its designee will either approve or reject Applications upon reviewing a property's Application for completeness and conformance with all eligibility requirements of the Program. Upon determination of eligibility, DEP will issue either an approval letter or a rejection letter. Approval letters shall state the latest date on which the fixed charge per dwelling unit will be effective and the number of units determined for the property. Rejection letters shall state the reason(s) for which the property's application has been denied and describe the appeal procedure.

**Section 5. Fixed Charge Per Dwelling Unit**

**5.1 Fiscal Year 2002 Charge**

For FY2002 (July 1, 2001 through June 30, 2002) the fixed charge per billable number of dwelling units will be established at \$424 subject to adjustment for any general water and/or sewer rate increase adopted by the Board for FY2002.

**5.2 Future Changes To the Fixed Charge**

Subsequent to FY2002 the Board may adjust the fixed charge in proportion to any future adjustments to general water and sewer rates and to ensure that the fixed charge continues to be consistent with the Board's objectives of revenue neutrality and water conservation.

**5.3 Rate Schedule Incorporation**

The FY2002 fixed charge, and all future changes to the fixed charge, shall be promulgated by the Board pursuant to the Board's statutory requirements for establishing and fixing water rates and charges and be incorporated into the Board's annual Water and Wastewater Rate Schedule.

**Section 6. Effective Date of Billing**

**6.1 Application Acceptance Period**

DEP will accept applications over a period extending through December 31, 2003.

**6.2 Effective Date of Fixed Charge**

- A. The effective date of the fixed charge per dwelling unit shall be prospective only.
- B. For any Complete Application received before December 31, 2000, the effective date of the fixed charge per dwelling unit will be July 1, 2001.
- C. For any Complete Application received after December 31, 2000, DEP shall be allowed a reasonable period of time not to exceed six months between the receipt of a Complete Application and the effective date of the fixed charge per dwelling unit. In the case of metered accounts, before an account can be converted from metered billing to the fixed charge per dwelling unit, DEP must obtain or establish a final meter reading for the account to close out metered billing for the property. The meter must be registering properly at the time of the final read. DEP may withhold approval of an application in the event DEP cannot obtain access to read a meter, or in cases where meters are missing or not registering properly.

**Section 7. Conversion to and From the Fixed Charge**

**7.1 Electing Metered Billing**

Any property being billed on the fixed charge may elect to convert to metered billing at any time. Properties can be converted to metered billing by writing DEP/BCS Customer Service, D.S. 738055, Elmhurst, NY 11373-9055. Meter based charges will be effective upon DEP's obtaining a meter reading to establish the initial consumption baseline on the meter and confirming that the meter is registering accurately. This initial reading will be obtained by DEP within 30 days of the customer's request to be converted to metered billing. If DEP has obtained a valid reading within 3 months prior to the application date, DEP may, at its option, use this reading as the initial reading for billing purposes.

**7.2 Mandatory Metered Billing Period**

Any property which has converted to metered billing from the fixed charge shall not be eligible to convert back to the fixed charge for at least four (4) years from the start date of metered billing.

**7.3 Reversion From Metered Billing to the Fixed Charge**

Any property reverting to the fixed charge per dwelling unit after a period of metered billing shall submit a Complete Application as set forth herein and shall be subject to all requirements, restrictions and procedures as if such application was an original and first time application.

**Section 8. Related Provisions**

**8.1 Elimination of Existing Billing Programs**

Effective FY2005 (the year beginning July 1, 2004) the following billing bases and programs will be eliminated and discontinued for multiple family residential buildings consisting of six units or more:

- Frontage Billing
  - Transition Billing
  - the Pre-Transition Flat Rate Billing Program (formerly the Retroactive Transition Program)
  - Metered Billing Caps (maximum metered charges per dwelling unit) for six or more family buildings only.
- 8.2 Single Alternative to Fixed Charge Per Dwelling Unit**  
In accordance with Section 8.1 above, any property consisting of six (6) or more dwelling units billed on the Frontage or Pre-Transition basis which has not applied for and met the requirements of the Multi-family Conservation Program by December 31, 2003 will automatically be converted to and be subject to metered billing effective July 1, 2004.
- 8.3 Continuation of Bill Caps for Properties Consisting of Five or Fewer Units**  
Metered Billing Caps as set forth in Part VI - Section 4 of the Board's Water and Wastewater Rate Schedule shall be continued for all properties consisting of five (5) or fewer dwelling units.
- 8.4 New Construction and Substantially Renovated Properties**  
Newly constructed or substantially renovated properties may elect the fixed rate if construction or renovation is in compliance with New York City building codes, and if it otherwise meets all specific eligibility, application and conservation requirements of the Program.
- 8.5 No Cooling Tower Allowances**  
Any sewer allowances previously authorized in connection with cooling towers for a property shall be discontinued coincident with the effective date of the fixed charge for any property electing the Multiple Family Conservation Program unless it is separately metered and billed for the cooling tower use.

### **Section 9. Enforcement**

DEP will use building-specific consumption measurements to establish a baseline consumption value for each property participating in the program. This value will represent the approximate expected consumption for the property. DEP will monitor the actual consumption of each property enrolled in the Program on an ongoing basis. Properties which regularly demonstrate excessive or extreme consumption variations in excess of the expected value will be identified. Such properties will be subject to inspection in an attempt to explain the elevated consumption level. The inspection will survey for leaks and waste and review any commercial uses. The failure by an owner or a representative of the owner to provide DEP or its agent with access to the premises in order to conduct any required inspections will be deemed as sufficient to deny the property continued eligibility for the Program.

If leaks are found, the owner will be given a reasonable time to effect repairs depending

on the severity of the leak. If detected leaks are not repaired, DEP will remove the property from the program and immediately convert the account to meter based billing. In addition, DEP may issue notices of violation subject to adjudication by the Environmental Control Board which may result in the assessment of fines and penalties.

If no leaks are found or if after leak repairs are made consumption remains substantially above the expected value, the property owner must take reasonable actions within their control, including those actions that may be directed by DEP, to minimize consumption. If the owner of the property fails to take such actions, DEP will remove the property from the program and immediately convert the account to meter based billing.