

THE SANTA CRUZ MUNICIPAL CODE

16.03.040 RETROFIT REQUIREMENTS UPON SALE OF REAL PROPERTY.

(a) When Required. All existing residential, commercial, and industrial buildings, shall, at the time of sale, be retrofitted, if not already so, exclusively with low consumption plumbing fixtures.

(b) Responsibilities of Seller. The seller shall be responsible for complying with the requirements of this chapter and for obtaining a water conservation certificate in accordance with Section 16.03.060 before the time of sale.

(c) Disclosure of Retrofit Requirement. The seller and/or the seller's real estate agent or broker shall give a written statement to the prospective buyer of the requirements of this chapter as soon as practicable prior to the transfer of title. The statement shall be either included in the receipt for deposit in a real estate transaction, an addendum to the real estate transfer disclosure statement, or a separate document. A signed copy of the water conservation certificate and the statement of retrofit requirements shall be included in the transfer documentation.

(Ord. 2003-23 § 1 (part), 2003: Ord. 2002-46 § 1 (part), 2002).

16.03.050 EXEMPTIONS.

The water director may grant an exemption to the provisions of this chapter to any person if the water director determines that the unique configuration of a building drainage system or portions of a public sewer, or both, are incompatible with low consumption toilet specifications and require a greater quantity of water to flush the system in a manner that is consistent with public health.

Structures which are considered architecturally significant and which are listed as such in a recognized federal, state, or local historic registry or in the city's General Plan are exempt from the requirements of this chapter when both of the following circumstances exist: authentic historic plumbing fixtures are presently in place in the structure; and the plumbing fixtures cannot be replaced by matching low consumption fixtures.

The director shall require sufficient evidence or proof be submitted to substantiate any exemption.

(Ord. 2003-23 § 1 (part), 2003: Ord. 2002-46 § 1 (part), 2002).

16.03.060 VERIFICATION OF COMPLIANCE.

(a) Upon retrofitting with low consumption plumbing fixtures, prior to time of sale, the seller shall verify compliance by one of the following methods:

1. Physical inspection of the building by city staff or other person authorized by the city to perform an on-site property inspection and to certify that the plumbing fixture requirements specified in this chapter have been satisfied;

2.Participation in the city toilet rebate program, where documentation of an inspection demonstrates that the retrofit requirements of this chapter have been satisfied;

3.Documentation that all structures that include plumbing fixtures on the property changing ownership were constructed or renovated in 1994 or later.

(b)Once compliance with the requirements of this chapter has been verified, a water conservation certificate will be issued to the seller within two business days.

(c)The director may waive re-inspection and/or further proof of retrofit when a property already certified undergoes a subsequent sale. Water conservation certificates shall be maintained on file at the department in order to provide future verification that low consumption plumbing fixtures have been installed.

(Ord. 2003-23 § 1 (part), 2003: Ord. 2002-46 § 1 (part), 2002).

16.03.070 PERSONS AUTHORIZED TO PERFORM PLUMBING FIXTURE INSPECTIONS.

The following persons shall be authorized to perform an inspection of plumbing fixtures for the purpose of verifying compliance with the provisions of this chapter:

(a)Employees of the city assigned by the director.

(b)A plumbing contractor who holds a valid contractor's license issued by the state of California.

(c)Other persons approved by the director to perform plumbing fixture inspections.

(Ord. 2003-23 § 1 (part), 2003: Ord. 2002-46 § 1 (part), 2002).

16.03.080 OPTION TO TRANSFER RESPONSIBILITY FOR RETROFITTING.

Before the time of sale, the seller and buyer of any property may mutually agree to transfer responsibility for compliance with this chapter to the buyer. In the event the buyer agrees to assume responsibility for retrofitting, the buyer shall complete the retrofit within ninety calendar days from the date of the sale. Before the time of sale, the seller and buyer shall complete the following procedures:

(a)The seller shall request from the department a transfer of responsibility to retrofit form. Both the seller and buyer shall sign the form certifying that the buyer has assumed responsibility for the retrofit.

(b)The seller shall file the signed transfer of responsibility to retrofit form with the department and include it in the real estate transfer documentation in lieu of the water conservation certificate.

(c) Upon completing the retrofit, the buyer shall contact the department to verify compliance. A water conservation certificate shall be issued to the buyer upon verification of compliance in accordance with Section 16.03.060.

(Ord. 2003-23 § 1 (part), 2003: Ord. 2002-46 § 1 (part), 2002).

16.03.090 PENALTIES FOR VIOLATION -- ENFORCEMENT.

(a) Violation. It is unlawful for any person, firm, partnership, association, or corporation to fail to comply with the retrofit requirements of this chapter, or to alter or replace low consumption plumbing fixtures required by the chapter with other than low consumption plumbing fixtures. Violation of the provisions of this chapter shall constitute an infraction.

(b) Notice of Correction. Whenever the director determines that there is a property where low consumption plumbing fixtures have not been installed as required by this chapter or where such fixtures have been removed since initial installation and replaced with other than low consumption plumbing fixtures, the director may serve a notice of correction on the owner(s) of the property on which the violation is situated and any other person responsible for the violation. The owner of record shall have ninety days to take corrective action.

(c) Administrative Enforcement. In addition to any other remedy provided by the Santa Cruz Municipal Code, any provision of this ordinance may be enforced by an administrative order issued pursuant to any one of the administrative processes set forth in Title 4 of the Santa Cruz Municipal Code. The water commission shall serve as the administrative enforcement hearing officer for the purpose of considering appeals.

(d) Persons Liable. No liability shall arise, nor shall any action be brought or maintained against, any agent of any party to a transfer of title, including any person or entity acting in the capacity of escrow officer, for any error, inaccuracy, or omission relating to compliance with this chapter. However, this section does not apply to a licensee, as defined in Section 10011 of the California Business and Professions Code, where the licensee participates in the making of the disclosure required to be made pursuant to this chapter with actual knowledge of the falsity of the disclosure. Except as otherwise provided in this chapter, this section shall not be deemed to create or imply a duty upon a licensee, as defined in Section 10011 of the California Business and Professions Code, or upon any agent of any party to a transfer of title, including any person or entity acting in the capacity of an escrow officer, to monitor or ensure compliance with this chapter, or to notify any person of requirements to comply with this chapter.

(e) A transfer of title is not invalidated on the basis of failure to comply with this chapter.

(Ord. 2003-23 § 1 (part), 2003: Ord. 2002-46 § 1 (part), 2002).

16.03.100 CIVIL REMEDY.

If the seller fails to comply with the retrofit requirements, the buyer shall install the low consumption plumbing fixtures and verify compliance in accordance with Section 16.03.060 within ninety days from the notice of correction. Any seller who fails to comply with the requirements of this chapter is liable to the buyer in the amount of two hundred

and fifty dollars for each fixture that does not comply with this chapter at the time of sale, or the actual costs of the buyer to comply with this chapter, whichever amounts are greater.

(Ord. 2003-23 § 1 (part), 2003: Ord. 2002-46 § 1 (part), 2002).