

March 10, 2005

Subject: Adoption of New City Ordinance - Mandatory Plumbing Retrofit Upon Change of Ownership

To Whom It May Concern:

On February 8, 2005 the Arroyo Grande City Council adopted an ordinance implementing a mandatory plumbing retrofit program upon the change of ownership of any residential property. The seller must retrofit the property's plumbing fixtures to meet the criteria of low-water use. The seller may do this on their own or they can request a retrofit through the City's existing plumbing retrofit program.

Attached you will find a copy of the adopted ordinance as well as a Water Conservation Certificate for your convenience. By following the steps below you can meet the requirements set forth in the new ordinance.

- Step 1: Owner or owner's representative arranges to perform the retrofit if necessary, complete the "Water Conservation Certificate" and forward the certificate to the Public Works Department at 208 East Branch Street.
- Step 2: City staff will process the certificate, or if necessary, arrange for an inspection of the property to verify the retrofit has been complete.
- Step 3: The original certificate is kept on file at the Public Works Department office. City staff will mail or fax a copy of the completed Water Conservation Certificate to the owner and/or owner's representative upon request.

In general homes built prior to 1985 were constructed with 5 - 6 gallon toilets and qualify for the City's retrofit program. Homes built between 1985 - 1992 were generally built with 3.5 gallon toilets. Although these homes require plumbing retrofit they do not qualify for the City's program at this time. All homes built after 1992 should have 1.6 gallon low flow toilets and do not need to be retrofitted. For those owners wishing to perform the retrofitting through the City's plumbing retrofit program, please call 473-5460 to obtain a request form.

The ordinance became effective March 8, 2005. However, to provide a smoother transition, only residential properties closing escrow after March 31, 2005 will be subject to the new ordinance.

We would like to thank you in advance for your help in conserving our water resources. With your help, we can address the long-range goal of reducing water consumption throughout the City.

Please contact the Public Works Department at (805) 473-5440 with any questions.

ORDINANCE NO. 563

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE ADDING CHAPTER 13.06 TO TITLE 13 OF THE ARROYO GRANDE MUNICIPAL CODE REGARDING IMPLEMENTATION OF A MANDATORY PLUMBING RETROFIT PROGRAM AND PROCEDURE UPON THE CHANGE OF OWNERSHIP OF REAL PROPERTY

WHEREAS, the City has found and determined that it is in the best interest of the City and its inhabitants to provide plumbing retrofit standards for the conservation of potable water supplies. Retrofit of existing plumbing fixtures will lessen consumption of limited potable water resources available to the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE DOES ORDAIN AS FOLLOWS:

SECTION 1: Chapter 13.06 is hereby added to Title 13 of the Arroyo Grande Municipal Code as follows:

Chapter 13.06 Mandatory Retrofit Program

13.06.010 Definitions.

A. "Change of ownership" means a transfer of a present interest in real property. Every transfer of property shall qualify as a "change of ownership", except transfer of title from one spouse to another, whether the transfer is voluntary, involuntary, by operation of law, by grant, gift, devise, inheritance, trust, contract of sale, addition or deletion of an owner, property settlement, or any other means. "Change of ownership" effected other than by a contract of sale shall be deemed to occur at the time of actual transfer of title. A "change of ownership" resulting from a contract of sale or similar instrument shall be so regarded only if escrow is opened or a contract of sale is executed, whichever occurs last, on or after the effective date of this chapter.

B. "Low-water-use plumbing fixtures" means any toilet using a maximum of one and six-tenths (1.6) gallons per flush and shower heads designed to emit a maximum of two and one-half (2.5) gallons per minute (gpm) of water.

C. "Retrofit" means the replacement of a conventional plumbing fixture with low-water-using plumbing fixtures.

D. "Water conservation certificate" means a certificate acknowledging that Installation of water-conserving plumbing fixtures has been completed.

13.06.020 Retrofit upon sale.

A. Before the close of escrow for any change of ownership, defined by this chapter, of real property within the City, the selling owner(s) or an authorized agent shall certify compliance with the retrofit requirements of this chapter by obtaining a water conservation certificate in accordance with § 13.06.040. No property transfer shall be recorded until verification has been received by the City and a water conservation certificate has been issued to the seller.

B. Pursuant to the authority vested to the City of Arroyo Grande under Civil Code Section 1102.6a, the City hereby requires disclosure of the retrofit requirements of this chapter, in transaction, transfer, or change in ownership subject to the provisions of this chapter.

C. No liability shall arise nor 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 an escrow, for any error, inaccuracy, or omission relating to compliance with this section. However, this section does not apply to a licensee, as defined in Section 10011 of the State Business and Professions Code, where the licensee participates in the making of the certification required to be made pursuant to this section with actual knowledge of the falsity of the certification.

13.06.030 Cost of Retrofit

The cost of retrofit shall be borne by the owner of the property. The owner can request a retrofit through the City's existing plumbing retrofit program as outlined in the City's Water Conservation Program. This program allows for the cost of the retrofit to be paid by the City if water conservation funds are available.

13.06.040 Verification.

A. Upon retrofitting with water-conserving plumbing fixtures, the seller, prior to the change of ownership, shall obtain from the utilities department a "water conservation certificate," in accordance with administrative procedures established by the department, verifying that water-conserving plumbing fixtures have been installed. The seller shall allow an inspection of property by City staff.

B. "Water conservation certificates" shall also be available to those who voluntarily install water-conserving plumbing fixtures or have installed water-conserving plumbing fixtures prior to the effective date of this chapter.

13.06.050 Notice of correction.

Whenever the Director of Public Works determines that there is a property where low-water-use 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-water-use 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. Failure to take corrective action within ninety days shall constitute a violation of this chapter.

13.06.060 Exemptions.

The Director of Public Works may exempt facilities from the provisions of this chapter, and impose reasonable conditions in lieu of full compliance herewith, if the Director determines that there are practical difficulties involved in carrying out the provisions of this chapter. The Director may exempt facilities from the provisions of this chapter when low-water-using fixtures are not available to match a historic architectural

style. The Director shall require that sufficient evidence or proof be submitted to substantiate any exemption or acceptance of alternatives.

13.06.070 Appeals.

A. Content of Appeals. An appeal may be made to an appeals board, consisting of representatives from the Community Development Department, Financial Services Department, and Utilities Department, by any person aggrieved by a decision of the Director of Public Works pursuant to this chapter. The appellant must specifically state in the notice of appeal:

1. The name and address of the appellant and the appellant's interest in the decision.

2. The nature of the decision appealed from and/or the conditions appealed from.

3. A clear, complete, but brief statement of the reasons why, in the opinion of the appellant, the decision or the conditions imposed were unjustified or inappropriate.

4. The specific facts of the matter in sufficient detail to notify the City. The appeal shall not be stated in generalities.

B. Acceptance of Appeal. An appeal shall not be accepted by the City unless it is complete.

13.06.080 Penalties; infraction.

It is unlawful to fail to comply with the retrofit requirements of this chapter or to alter or replace low-water-use plumbing fixtures required by this chapter with fixtures other than low-water-use plumbing fixtures. Violation of the provisions of this chapter shall constitute an infraction. Each day any violation of this chapter continues shall be considered a new and separate offense.

13.06.090 Remedies cumulative.

The decision of the City to pursue either a civil or criminal or abatement action against a person violating any provision of this chapter shall not preclude further relief by use of any other remedy provided herein, or by common law, statute, or ordinance.

SECTION 2: If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is for any reason held to be unlawful, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase be declared unlawful.

SECTION 3: A summary of this Ordinance shall be published in a newspaper published and circulated in the City of Arroyo Grande at least five (5) days prior to the City Council meeting at which the proposed Ordinance is to be adopted. A certified copy of the full text of the proposed Ordinance shall be posted in the office of the City Clerk. Within fifteen (15) days after adoption of the Ordinance, the summary with the names of those

City Council members voting for and against the Ordinance shall be published again, and the City Clerk shall post a certified copy of the full text of such adopted Ordinance.

SECTION 4: This Ordinance shall take effect and be in full force and effect thirty (30) days after its passage.

On motion of Council Member Dickens, seconded by Council Member Guthrie, and on the following roll call vote, to wit:

AYES: Council Members Dickens, Guthrie, Arnold, Costello and Mayor Ferrara

NOES: None

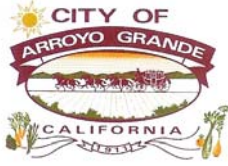
ABSENT: None

the foregoing Ordinance was passed and adopted this 8th day of February 2005.

/s/ TONY M. FERRARA, MAYOR

ATTEST:

/s/ KELLY WETMORE, CITY CLERK



City of Arroyo Grande Public Works Department
Water Conservation Certificate

Assessors Parcel Number: _____ - _____ - _____

Property Address _____

I, _____ Owner/Buyer/Agent of the
(Print Name) (Circle One)

Address listed above, hereby agree that the property is in compliance with the City of Arroyo Grande's Retrofit Ordinance.

I Declare, under penalty of perjury, that the information stated above is true and correct, to the best of my knowledge.

Signature: _____ Date: _____

Mailing Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____ Fax Number: _____

If you would like a copy of the Water Conservation Certificate faxed to your real estate agent, please provide the following information:

Real estate agent _____ Phone # _____ Fax # _____

Public Works use only

This certificate has been verified by one of the following:

- Owner Verification (Subject to inspection)
- Contractor Verification
- City Inspection (Conducted by: _____)
- Building Plans
- Approved Exemption (Attach copies of request and approval)

Date of Retrofit: _____ Total # of Toilets: _____

Offset Project: _____ Contractor: _____ Credit: _____

Contr. Ph. #: _____ Comments: _____

City Approved Signature: _____ Validation Date: _____