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(O-94-71 REV. 2)

ORDINANCE NUMBER O-18112 (NEW SERIES)

ADOPTED ON NOV 28 1994

AN ORDINANCE AMENDING CHAPTER IX, ARTICLE 3, DIVISION 2, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 93.0208 RELATING TO WATER-CONSERVING PLUMBING STANDARDS.

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter IX, Article 3, Division 2, of the San Diego Municipal Code be and the same is hereby amended by amending Section 93.0208, to read as follows:

SEC. 93.0208 Water-Conserving Plumbing Standards.

(a) Purpose.

The purpose of Section 93.0208 is to reduce sewer flows and decrease the use of imported, potable water in The City by establishing water-conserving plumbing standards for plumbing fixtures.

(b) Scope.

The provisions of Section 93.0208 shall apply to the installation of Water-Conserving Plumbing Fixtures in any structure served by the City Water Utilities Department.

(c) Definitions.

The following definitions are applicable to Section 93.0208:

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"Administrative Authority" means the City Manager or his designee.

"Bathroom Alteration" means any alteration of or addition to a bathroom in any structure for which Section 93.0301 would require a plumbing permit for replacement of a toilet.

"Bathroom Alteration Retrofit Certificate" means a certificate that certifies that any Responsible Person who has completed a Bathroom Alteration has replaced any Existing Plumbing Fixture in the altered bathroom with a Water-Conserving Plumbing Fixture.

"Change of Ownership" means a transfer, sale, or exchange of the fee interest in any real property.

"Existing Plumbing Fixture" means:

- (1) any toilet manufactured to use more than 3.5 gallons of water per flush;
- (2) any urinal manufactured to use more than one gallon of water per flush;
- (3) any showerhead manufactured to have a flow capacity of more than 2.5 gallons of water per minute;
- (4) any faucet that emits more than 2.2 gallons of water per minute; or
- (5) any residential reverse osmosis system that does not have a shutoff valve.

"Existing Structure" means either of the following:

(1) any structure served by the City Water Utilities Department and equipped with toilets manufactured to use more than 3.5 gallons of water per flush, or urinals manufactured to use more than one gallon of water per flush; or

(2) any structure served by the City Water Utilities Department and equipped with showerheads that have a flow capacity of more than 2.5 gallons of water per minute, faucets that emit more than 2.2 gallons of water per minute, or residential reverse osmosis systems that do not have a shutoff valves.

"Retrofit" means to replace any Existing Plumbing Fixture in an Existing Structure with a Water-Conserving Plumbing Fixture.

"Transfer of Responsibility to Retrofit Certificate" means a certificate filed by a transferor of any Existing Structure prior to Change of Ownership that certifies that the transferor and the transferee mutually agree that responsibility for compliance with Section 93.0208 is assumed by the transferee of the Existing Structure.

"Ultra-Low Flush Toilet Rebate Program" means a City-sponsored water conservation program which offers a financial incentive to water customers who replace a toilet which is manufactured to use more than 1.6

gallons of water per flush with a toilet manufactured to use no more than 1.6 gallons of water per flush.

"Water Conservation Certificate" means a certificate filed by a transferor or transferee of any structure or Existing Structure prior to Change of Ownership that certifies any structure or Existing Structure is equipped or Retrofitted only with the following plumbing fixtures:

(1) toilets manufactured to use no more than 3.5 gallons of water per flush;

(2) toilets manufactured to use no more than 1.6 gallons of water per flush, which meet performance standards established by American Society of Mechanical Engineers Standards A112.19.2-1990 and A112.19.6-1990;

(3) urinals manufactured to use no more than one gallon of water per flush, which meet performance standards established by American Society of Mechanical Engineers Standards A112.19.2-1990 and A112.19.6-1990;

(4) showerheads manufactured to have a flow capacity of no more than 2.5 gallons of water per minute;

(5) faucets that emit no more than 2.2 gallons of water per minute; or

(6) residential reverse osmosis systems that have shutoff valves.

"Water-Conserving Plumbing Fixture" means:

(1) any toilet manufactured to use no more than 1.6 gallons of water per flush, which meets performance standards established by American Society of Mechanical Engineers Standards A112.19.2-1990 and A112.19.6-1990;

(2) any urinal manufactured to use no more than one gallon of water per flush, which meets performance standards established by American Society of Mechanical Engineers Standards A112.19.2-1990 and A112.19.6-1990;

(3) any showerhead manufactured to have a flow capacity of no more than 2.5 gallons of water per minute;

(4) any faucet that emits no more than 2.2 gallons of water per minute; or

(5) any residential reverse osmosis system that has a shutoff valve.

(d) Retrofit Upon Change of Ownership.

(1) Prior to Change of Ownership, the transferor of any Existing Structure shall replace any Existing Plumbing Fixture with a Water-Conserving Plumbing Fixture.

(2) Prior to Change of Ownership, the transferor and the transferee of any Existing Structure mutually may agree to transfer responsibility for compliance with Section 93.0208 to the transferee. In the event the transferee assumes responsibility for

Retrofitting, the transferee shall complete the Retrofit within at least ninety (90) calendar days following the Change of Ownership.

(3) The transferor and the transferee of any Existing Structure mutually may agree to have compliance with Section 93.0208 included as a condition of escrow, have the responsibility for Retrofitting assumed by the transferee, and have the Retrofit paid for from the proceeds of the sale of the Existing Structure.

(A) In the event the transferor and the transferee agree to have compliance with Section 93.0208 included as a condition of escrow, the escrow agent shall retain a sufficient sum of money, agreed upon by the transferor and the transferee, to be retained from the proceeds of the sale to complete the Retrofit.

(B) The transferee shall complete the Retrofit within at least ninety (90) calendar days following the close of escrow.

(C) After the transferee has completed the Retrofit, the transferee shall submit proof of completion of the Retrofit to the escrow agent. The escrow agent may release the retained funds from the proceeds of the sale upon receiving reasonable,

satisfactory proof of completion of the Retrofit from the transferee.

(D) The Administrative Authority shall establish administrative regulations for the procedures to be followed by the transferor, the transferee, and the escrow agent for complying with Section 93.0208(d)(3).

(4) The transferor of any Existing Structure shall not be required to Retrofit when a Change of Ownership occurs as a result of:

(A) a court order, including, but not limited to, an order by a probate court in the administration of an estate;

(B) a foreclosure, voluntary or involuntary bankruptcy;

(C) the exercise of eminent domain;

(D) the administration of a decedent's estate, guardianship, conservatorship, or trust;

(E) one title co-holder of real property transferring, selling, or exchanging or more other title co-holders;

(F) a transfer, without consideration, from one family member to another family member; or

(G) a decree of dissolution of marriage, a decree of legal separation, or from a

property settlement agreement incidental to such a decree.

(e) Retrofit Upon Bathroom Alteration.

Upon Bathroom Alteration, any Responsible Person shall replace any Existing Plumbing Fixture in the bathroom being altered with a Water-Conserving Plumbing Fixture.

(f) Retrofit Exemptions.

The Administrative Authority may grant an exemption to the provisions of Section 92.0208 to any Person if the Administrative Authority determines any of the following conditions exist:

(1) a Water-Conserving Plumbing Fixture would be installed in an Existing Structure which has been identified by a local, State of California, or federal government entity as an historical site, and an historically accurate Water-Conserving Plumbing Fixture is not available;

(2) installation of a Water-Conserving Plumbing Fixture would require modifications to plumbing system components located beneath a finished wall or surface; or

(3) the unique configuration of a building drainage system or portions of a public sewer, or both, within The City require a greater quantity of water to

flush the system in a manner consistent with public health.

(g) Plumbing Permit.

Any Person who installs a Water-Conserving Plumbing Fixture pursuant to Section 93.0208(d) in any single family residence, or in any multi-family residence or apartment building with eight (8) or fewer units, shall not be required to obtain a plumbing permit pursuant to Section 93.0301, unless the installation requires an alteration or replacement of drainage, waste, vent, or supply-plumbing pipes.

(h) Self-Verification.

(1) Prior to Change of Ownership, the transferor and the transferee of any structure or any Existing Structure shall complete the following procedures:

(A) The transferor shall sign a Water Conservation Certificate certifying that the transferor either has complied with the requirements of Section 93.0208, or is exempt from Retrofitting pursuant to Section 93.0208(f).

(B) After signing the Water Conservation Certificate, the transferor shall forward the Water Conservation Certificate to the transferee for review and signature.

(C) The transferee shall sign the Water Conservation Certificate, thereby acknowledging awareness and understanding of the requirements of Section 93.0208.

(D) After the transferee has signed the Water Conservation Certificate, the transferor shall file the Water Conservation Certificate with the Administrative Authority.

(E) In the event the structure or Existing Structure goes through escrow, the transferor also shall file a copy of the Water Conservation Certificate with the escrow agent prior to the close of escrow.

(2) In the event the transferor and transferee of an Existing Structure agree that the transferee shall have responsibility for the Retrofit upon Change of Ownership pursuant to Section 93.0208(d)(2), prior to Change of Ownership, the transferor and the transferee shall complete the following procedures:

(A) The transferor and the transferee shall sign a Transfer of Responsibility to Retrofit Certificate certifying that the transferee has assumed responsibility for the Retrofit.

(B) After the transferor and the transferee have signed the Transfer of Responsibility

to Retrofit Certificate, the transferor shall file the Transfer of Responsibility to Retrofit Certificate with the Administrative Authority.

(C) In the event the Existing Structure goes through escrow, the transferor also shall file a copy of the Transfer of Responsibility to Retrofit Certificate with the escrow agent prior to the close of escrow.

(D) Upon completing the Retrofit, the transferee shall sign a Water Conservation Certificate certifying that the transferee has complied with the requirements of Section 93.0208.

(E) Within at least thirty (30) calendar days following completion of the Retrofit, the transferee shall file the signed Water Conservation Certificate with the Administrative Authority.

(3) In the event the transferor and the transferee mutually have agreed to have compliance with Section 93.0208 included as a condition of escrow, have the responsibility for Retrofitting assumed by the transferee, and have the Retrofit paid for from the proceeds of the sale of the Existing Structure pursuant to Section 93.0208(d)(3), the transferor and the transferee shall complete the following procedures:

(A) The transferor and the transferee shall sign a Transfer of Responsibility to Retrofit

Certificate certifying that the transferee has assumed responsibility for the Retrofit.

(B) After the transferor and the transferee have signed the Transfer of Responsibility to Retrofit Certificate, and prior to the close of escrow, the transferor shall file the Transfer of Responsibility to Retrofit Certificate with the Administrative Authority and a copy thereof with the escrow agent.

(C) Upon completing the Retrofit, the transferee shall sign a Water Conservation Certificate certifying that the transferee has complied with the requirements of Section 93.0208.

(D) Within at least thirty (30) calendar days following completion of the Retrofit, the transferee, or the escrow agent on the transferee's behalf, shall file the signed Water Conservation Certificate with the Administrative Authority.

(4) The transferor of any structure which is in compliance with the requirements of Section 93.0208 shall not be required to file a Water Conservation Certificate with the Administrative Authority prior to Change of Ownership pursuant to Section 93.0208(h) in the event a Water Conservation Certificate has been filed with the Administrative Authority by a previous owner of the structure.

(5) Upon completing the Retrofit of a bathroom pursuant to Section 93.0208(e), any Responsible Person shall complete the following procedures:

(A) The Responsible Person shall sign a Bathroom Alteration Retrofit Certificate certifying that the Responsible Person has complied with the requirements of Section 93.0208(e).

(B) Within at least thirty (30) calendar days following completion of any Bathroom Alteration, the Responsible Person shall file the signed Bathroom Alteration Retrofit Certificate with the Administrative Authority.

(i) Agents of a Transferor.

Nothing in Section 93.0208 is intended to create any duty upon the agent of a transferor or a transferee of any structure or any Existing Structure, unless otherwise mutually agreed to in writing.

(j) Enforcement Remedies.

(1) Violations of Section 93.0208 may be prosecuted as infractions subject to the penalties provided in Section 12.0201. Violations of Section 93.0208 may be enforced by injunctive relief and civil penalties in the Superior Court pursuant to Section 12.0202 or by any administrative remedy provided in Chapter I of this Code.

(2) Violations of Section 93.0208 shall be treated as strict liability offenses regardless of intent.

Section 2. This ordinance shall take effect and be in force on the ninetieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By Kelly J. Salt
Kelly J. Salt
Deputy City Attorney

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OLD LANGUAGE: ~~STRIKEOUT~~
NEW LANGUAGE: ~~SHADED~~

STRIKEOUT ORDINANCE

ORDINANCE NUMBER O-_____ (NEW SERIES)

ADOPTED ON _____

AN ORDINANCE AMENDING CHAPTER IX, ARTICLE 3,
DIVISION 2, OF THE SAN DIEGO MUNICIPAL CODE
BY AMENDING SECTION 93.0208 RELATING TO
WATER-CONSERVING PLUMBING STANDARDS.

**SEC. 93.0208 Water-Conserving Plumbing
Standards. ~~Upon Change of Property
Ownership or Upon Bathroom Alteration.~~**

(a) Purpose.

~~It is the~~ purpose of this section
~~93.0208~~ is to reduce sewer flows and decrease
the use of imported, potable water in ~~the~~
~~City of San Diego~~ by establishing water-
conserving plumbing standards for
plumbing fixtures. ~~Retrofitted upon Change of
Ownership or upon Bathroom Alteration and to
implement the option credit project as
outlined by the court.~~

(b) Scope.

The provisions of this section ~~93.0208~~
~~shall~~ apply to the installation of Water-
Conserving Plumbing Fixtures ~~upon Change of
Ownership or upon Bathroom Alteration.~~ in any
structure served by the City Water Utilities
Department.

~~(e) Application.~~

~~The provisions of this section apply to all persons, customers and property served by the City of San Diego Water Utilities Department.~~

~~(d)~~ (c) **Definitions.**

The following definitions are applicable to this ~~s~~Section: **93.0208:**

1. ~~"Water-Conserving Plumbing Fixtures"~~ means ~~any toilet using a maximum of 1.6 gallons of water per flush, urinals that use a maximum of 1.0 gallon of water per flush, showerheads with a maximum flow capacity of 2.5 gallons of water per minute, faucets that emit a maximum of 2.2 gallons of water per minute, and shutoff valves for residential reverse osmosis systems.~~

2. ~~"Existing Plumbing Fixtures"~~ means ~~any toilet using more than 3.5 gallons of water per flush, urinals using more than 1.0 gallons of water per flush, showerheads with a flow capacity of more than 2.5 gallons of water per minute, faucets that emit more than 2.2 gallons of water per minute, and residential reverse osmosis systems not equipped with shutoff valves.~~

3. ~~"Retrofit"~~ means ~~replacing "Existing Plumbing Fixtures" with "Water-Conserving Plumbing Fixtures."~~

~~4. "Change of Ownership" means a transfer of present interest in real property, or a transfer of the right to beneficial use thereof, the value of which is substantially equal to the proportion of the ownership interest transferred.~~

~~5. "Existing Structure" means either of the following:~~

~~(a) Any structure built and available for use or occupancy on or before January 1, 1983, which is equipped with a toilet using more than 3.5 gallons of water per flush or a urinal using more than 1.0 gallons of water per flush; or~~

~~(b) Any structure built and available for use or occupancy on or before December 1, 1991, which is equipped with a showerhead with a flow capacity of more than 2.5 gallons of water per minute, a faucet that emits more than 2.2 gallons of water per minute or a residential reverse osmosis system not equipped with shutoff valves.~~

~~6. "Bathroom Alteration" means any alteration or addition of a bathroom that would necessitate obtaining a plumbing permit for replacement of any toilet(s) as mandated in San Diego Municipal Code section 93.0301.~~

~~7. "Administrative Authority" means the Director or his or her designee of The City of San Diego Building Inspection Department.~~

~~8. "Ultra-Low Flush Toilet Rebate Program" means a City of San Diego sponsored water conservation program which offers a financial incentive to water customers who replace an existing toilet with an ultra-low flush toilet.~~

~~9. "Water Conservation Certificate" means a certificate acknowledging that installation of Water Conserving Plumbing Fixtures has been completed and has been submitted to the Administrative Authority by a transferor upon Change of Ownership, or by a property owner or manager upon Bathroom Alteration, by a water customer who participates in the City's Ultra-Low Flush Toilet Rebate Program, or by a water customer who has Retrofitted without participating in the City's Ultra-Low Flush Toilet Rebate Program.~~

~~"Administrative Authority" means the City Manager or his designee.~~

~~"Bathroom Alteration" means any alteration of or addition to a bathroom in any structure for which Section 93.0301 would~~

require a plumbing permit for replacement of a toilet.

"Bathroom Alteration Retrofit Certificate" means a certificate that certifies that any Responsible Person who has completed a Bathroom Alteration has replaced any Existing Plumbing Fixture in the altered bathroom with a Water-Conserving Plumbing Fixture.

"Change of Ownership" means a transfer, sale, or exchange of the fee interest in any real property.

"Existing Plumbing Fixture" means:

- (1) any toilet manufactured to use more than 3.5 gallons of water per flush;
- (2) any urinal manufactured to use more than one gallon of water per flush;
- (3) any showerhead manufactured to have a flow capacity of more than 2.5 gallons of water per minute;
- (4) any faucet that emits more than 2.2 gallons of water per minute; or
- (5) any residential reverse osmosis system that does not have a shutoff valve.

"Existing Structure" means either of the following:

- (1) any structure served by the City Water Utilities Department and equipped with

toilets manufactured to use more than 3.5 gallons of water per flush, or urinals manufactured to use more than one gallon of water per flush; or

(2) any structure served by the City Water Utilities Department and equipped with showerheads that have a flow capacity of more than 2.5 gallons of water per minute, faucets that emit more than 2.2 gallons of water per minute, or residential reverse osmosis systems that do not have a shutoff valves.

"Retrofit" means to replace any Existing Plumbing Fixture in an Existing Structure with a Water-Conserving Plumbing Fixture.

"Transfer of Responsibility to Retrofit Certificate" means a certificate filed by a transferor of any Existing Structure prior to Change of Ownership that certifies that the transferor and the transferee mutually agree that responsibility for compliance with Section 93.0208 is assumed by the transferee of the Existing Structure.

"Ultra-Low Flush Toilet Rebate Program" means a City-sponsored water conservation program which offers a financial incentive to water customers who replace a toilet which is manufactured to use more than 1.6 gallons of

water per flush with a toilet manufactured to use no more than 1.6 gallons of water per flush.

"Water Conservation Certificate" means a certificate filed by a transferor or transferee of any structure or Existing Structure prior to Change of Ownership that certifies any structure or Existing Structure is equipped or Retrofitted only with the following plumbing fixtures:

(1) toilets manufactured to use no more than 3.5 gallons of water per flush;

(2) toilets manufactured to use no more than 1.6 gallons of water per flush, which meet performance standards established by American Society of Mechanical Engineers Standards A112.19.2-1990 and A112.19.6-1990;

(3) urinals manufactured to use no more than one gallon of water per flush, which meet performance standards established by American Society of Mechanical Engineers Standards A112.19.2-1990 and A112.19.6-1990;

(4) showerheads manufactured to have a flow capacity of no more than 2.5 gallons of water per minute;

(5) faucets that emit no more than 2.2 gallons of water per minute; or

(6) residential reverse osmosis systems that have shutoff valves.

"Water-Conserving Plumbing Fixture" means:

(1) any toilet manufactured to use no more than 1.6 gallons of water per flush, which meets performance standards established by American Society of Mechanical Engineers Standards A112.19.2-1990 and A112.19.6-1990;

(2) any urinal manufactured to use no more than one gallon of water per flush, which meets performance standards established by American Society of Mechanical Engineers Standards A112.19.2-1990 and A112.19.6-1990;

(3) any showerhead manufactured to have a flow capacity of no more than 2.5 gallons of water per minute;

(4) any faucet that emits no more than 2.2 gallons of water per minute; or

(5) any residential reverse osmosis system that has a shutoff valve.

(e)(d) Retrofit Upon Change of Ownership.

~~1. Effective January 1, 1992, all Existing Plumbing Fixtures in Existing Structures, including residential, commercial, and industrial structures, shall, at the time of Change of Ownership, be~~

~~Retrofitted, if not already done, exclusively with Water-Conserving Plumbing Fixtures. At the discretion of the transferor, compliance with this section may be included as a condition of the escrow, and the costs of compliance may be paid from the proceeds of sale for completion of the work required.~~

(1) Prior to Change of Ownership, the transferor of any Existing Structure shall replace any Existing Plumbing Fixture with a Water-Conserving Plumbing Fixture.

(2) Prior to Change of Ownership, the transferor and the transferee of any Existing Structure mutually may agree to transfer responsibility for compliance with Section 93.0208 to the transferee. In the event the transferee assumes responsibility for Retrofitting, the transferee shall complete the Retrofit within at least ninety (90) calendar days following the Change of Ownership.

(3) The transferor and the transferee of any Existing Structure mutually may agree to have compliance with Section 93.0208 included as a condition of escrow, have the responsibility for Retrofitting assumed by the transferee, and have the Retrofit paid

for from the proceeds of the sale of the Existing Structure.

(A) In the event the transferor and the transferee agree to have compliance with Section 93.0208 included as a condition of escrow, the escrow agent shall retain a sufficient sum of money, agreed upon by the transferor and the transferee, to be retained from the proceeds of the sale complete the Retrofit.

(B) The transferee shall complete the Retrofit within at least ninety (90) calendar days following the close of escrow.

(C) After the transferee has completed the Retrofit, the transferee shall submit proof of completion of the Retrofit to the escrow agent. The escrow agent may release the retained funds from the proceeds of the sale upon receiving reasonable, satisfactory proof of completion of the Retrofit from the transferee.

(D) The Administrative Authority shall establish administrative regulations for the procedures to be followed by the transferor, the transferee, and the escrow agent for complying with Section 93.0208(d)(3).

(4) The transferor of any Existing Structure shall not be required to Retrofit when a Change of Ownership occurs as a result of:

(A) a court order, including, but not limited to, an order by a probate court in the administration of an estate;

(B) a foreclosure, voluntary or involuntary bankruptcy;

(C) the exercise of eminent domain;

(D) the administration of a decedent's estate, guardianship, conservatorship, or trust;

(E) one title co-holder of real property transferring, selling, or exchanging or more other title co-holders;

(F) a transfer, without consideration, from one family member to another family member; or

(G) a decree of dissolution of marriage, a decree of legal separation, or from a property settlement agreement incidental to such a decree.

~~(f)~~(e) Retrofit Upon Bathroom Alteration.

~~Effective January 1, 1992, all structures, including residential,~~

~~commercial, and industrial structures, shall, upon Bathroom Alteration, be Retrofitted exclusively with Water-Conserving Plumbing Fixtures.~~

Upon Bathroom Alteration, any Responsible Person shall replace any Existing Plumbing Fixture in the bathroom being altered with a Water-Conserving Plumbing Fixture.

~~(g)~~(f) Retrofit Exemptions.

The Administrative Authority may grant an exemption in to the following instance: provisions of Section 92.0208 to any Person if the Administrative Authority determines any of the following conditions exist:

~~1. Unavailability of Water-Conserving Plumbing Fixtures to match a well-defined historic architectural style (i.e. Victorian, Mission), fitted with authentic plumbing fixtures, in a local, state or federally designated building of historic significance.~~

(1) a Water-Conserving Plumbing Fixture would be installed in an Existing Structure which has been identified by a local, State of California, or federal government entity as an historical site, and an historically accurate Water-Conserving Plumbing Fixture is not available;

(2) installation of a Water-Conserving Plumbing Fixture would require modifications to plumbing system components located beneath a finished wall or surface; or

(3) the unique configuration of a building drainage system or portions of a public sewer, or both, within The City require a greater quantity of water to flush the system in a manner consistent with public health.

~~(h) Compliance.~~

~~1. It shall be the transferor's responsibility, upon Change of Ownership, to obtain the necessary plumbing permit for replacement of toilets mandated in San Diego Municipal Code section 93.0301, except that a permit shall not be required for single family residences, or multi-family units or apartment buildings with eight or fewer units when installing a replacement toilet using 1.6 gallons of water per flush. A plumbing permit shall be required for the replacement of drainage, waste, vent or supply plumbing pipes.~~

~~2. It shall be the title holder's responsibility, upon Bathroom Alteration, to obtain the necessary plumbing permit for replacement of toilets mandated in San Diego~~

~~Municipal Code section 93.0301, except that a plumbing permit for the replacement of toilets shall not be required for single family residences, or multi-family units or apartment buildings with eight or fewer units when installing a replacement toilet using 1.6 gallons of water per flush. A plumbing permit shall be required for the replacement of drainage, waste, vent or supply plumbing pipes.~~

~~(g) Plumbing Permit.~~

~~Any Person who installs a Water-Conserving Plumbing Fixture pursuant to Section 93.0208(d) in any single family residence, or in any multi-family residence or apartment building with eight (8) or fewer units, shall not be required to obtain a plumbing permit pursuant to Section 93.0301, unless the installation requires an alteration or replacement of drainage, waste, vent, or supply-plumbing pipes.~~

~~(i)(h) Self-Verification.~~

~~1. Upon Retrofitting with Water-Conserving Plumbing Fixtures, the transferor, upon Change of Ownership, or the title holder, upon Bathroom Alteration, shall submit to the Administrative Authority a "Water Conservation Certificate," the form of which is available from the Administrative~~

~~Authority, verifying that Water-Conserving Plumbing fixtures have been installed.~~

~~2. "Water Conservation Certificates" shall be maintained by the Administrative Authority in order to provide future verification that Water-Conserving Plumbing Fixtures have been installed.~~

~~3. "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 January 1, 1992.~~

(1) Prior to Change of Ownership, the transferor and the transferee of any structure or any Existing Structure shall complete the following procedures:

(A) The transferor shall sign a Water Conservation Certificate certifying that the transferor either has complied with the requirements of Section 93.0208, or is exempt from Retrofitting pursuant to Section 93.0208(f).

(B) After signing the Water Conservation Certificate, the transferor shall forward the Water Conservation Certificate to the transferee for review and signature.

(C) The transferee shall sign the Water Conservation Certificate, thereby acknowledging awareness and understanding of the requirements of Section 93.0208.

(D) After the transferee has signed the Water Conservation Certificate, the transferor shall file the Water Conservation Certificate with the Administrative Authority.

(E) In the event the structure or Existing Structure goes through escrow, the transferor also shall file a copy of the Water Conservation Certificate with the escrow agent prior to the close of escrow.

(2) In the event the transferor and transferee of an Existing Structure agree that the transferee shall have responsibility for the Retrofit upon Change of Ownership pursuant to Section 93.0208(d)(2), prior to Change of Ownership, the transferor and the transferee shall complete the following procedures:

(A) The transferor and the transferee shall sign a Transfer of Responsibility to Retrofit Certificate certifying that the transferee has assumed responsibility for the Retrofit.

(B) After the transferor and the transferee have signed the Transfer of Responsibility to Retrofit Certificate, the transferor shall file the Transfer of Responsibility to Retrofit Certificate with the Administrative Authority.

(C) In the event the Existing Structure goes through escrow, the transferor also shall file a copy of the Transfer of Responsibility to Retrofit Certificate with the escrow agent prior to the close of escrow.

(D) Upon completing the Retrofit, the transferee shall sign a Water Conservation Certificate certifying that the transferee has complied with the requirements of Section 93.0208.

(E) Within at least thirty (30) calendar days following completion of the Retrofit, the transferee shall file the signed Water Conservation Certificate with the Administrative Authority.

(3) In the event the transferor and the transferee mutually have agreed to have compliance with Section 93.0208 included as a condition of escrow, have the responsibility for Retrofitting assumed by the transferee, and have the Retrofit paid for from the

proceeds of the sale of the Existing Structure pursuant to Section 93.0208(d) (3), the transferor and the transferee shall complete the following procedures:

(A) The transferor and the transferee shall sign a Transfer of Responsibility to Retrofit Certificate certifying that the transferee has assumed responsibility for the Retrofit.

(B) After the transferor and the transferee have signed the Transfer of Responsibility to Retrofit Certificate, and prior to the close of escrow, the transferor shall file the Transfer of Responsibility to Retrofit Certificate with the Administrative Authority and a copy thereof with the escrow agent.

(C) Upon completing the Retrofit, the transferee shall sign a Water Conservation Certificate certifying that the transferee has complied with the requirements of Section 93.0208.

(D) Within at least thirty (30) calendar days following completion of the Retrofit, the transferee, or the escrow agent on the transferee's behalf, shall file the signed Water Conservation Certificate with the Administrative Authority.

(4) The transferor of any structure which is in compliance with the requirements of Section 93.0208 shall not be required to file a Water Conservation Certificate with the Administrative Authority prior to Change of Ownership pursuant to Section 93.0208(h) in the event a Water Conservation Certificate has been filed with the Administrative Authority by a previous owner of the structure.

(5) Upon completing the Retrofit of a bathroom pursuant to Section 93.0208(e), any Responsible Person shall complete the following procedures:

(A) The Responsible Person shall sign a Bathroom Alteration Retrofit Certificate certifying that the Responsible Person has complied with the requirements of Section 93.0208(e).

(B) Within at least thirty (30) calendar days following completion of any Bathroom Alteration, the Responsible Person shall file the signed Bathroom Alteration Retrofit Certificate with the Administrative Authority.

(i) Agents of a Transferor.

Nothing in Section 93.0208 is intended to create any duty upon the agent of a

~~transferor or a transferee of any structure or any Existing Structure, unless otherwise mutually agreed to in writing.~~

~~j. Ultra-Low Flush Toilet Rebate Program.~~

~~Nothing in this section shall preclude a transferor, transferee, or title holder from participating in the Ultra-Low Flush Toilet Rebate Program.~~

~~k. Penalty.~~

~~1. It is unlawful for any person, firm, partnership, association or corporation, to violate, to cause, or to maintain a violation of this section.~~

~~2. It is unlawful for any person, firm, partnership, association or corporation to remove, or to cause the removal of Water-Conserving Plumbing Fixtures contrary to the provisions of this section.~~

~~3. In addition to any other remedy provided by this Code, any provision of this section may be enforced by injunction issued by the Superior Court upon a suit brought by The City of San Diego.~~

~~4. In addition to any other remedy provided by this Code, any provision of this section may be enforced by an administrative order issued pursuant to any one of the~~

~~administrative processes set forth in San Diego Municipal Code Chapter I, Article 2.~~

~~5. 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. Except as otherwise provided in this section, this section shall not be deemed to create or imply a duty upon a licensee, as defined in Section 10011 of the State 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, to monitor or ensure compliance with this section, or to notify any person of requirements to comply with this section.~~

~~(k) (j) Enforcement Remedies.~~

~~i. The Administrative Authority is authorized and empowered to enforce the provisions of this section.~~

~~2. Every person, firm, partnership, association or corporation that violates, causes or maintains a violation of any provision in this section is guilty of an infraction and is subject to the penalties imposed by San Diego Municipal Code section 12.0201.~~

(1) Violations of Section 93.0208 may be prosecuted as infractions subject to the penalties provided in Section 12.0201.

Violations of Section 93.0208 may be enforced by injunctive relief and civil penalties in the Superior Court pursuant to Section 12.0202 or by any administrative remedy provided in Chapter I of this Code.

(2) Violations of Section 93.0208 shall be treated as strict liability offenses regardless of intent.

09/28/94
11/01/94 rev.2

NOV 28 1994

Passed and adopted by the Council of The City of San Diego on.....
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Harry Mathis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Christine Kehoe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
George Stevens	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Barbara Warden	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Valerie Stallings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Juan Vargas	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

SUSAN GOLDING
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

By *Bhanda B. Barnes*, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on **NOV 14 1994**, and on **NOV 28 1994**

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

(Seal)

By *Bhanda B. Barnes*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number **0-18112** Adopted **NOV 28 1994**

CERTIFICATE OF PUBLICATION

RECEIVED
CITY CLERK'S OFFICE
94 DEC 15 AM 10:46
SAN DIEGO, CALIF.

Cl

OFFICE OF THE CITY CLERK
2ND FLOOR CITY ADMIN. BLDG.
202 C STREET
SAN DIEGO, CA 92101

IN THE MATTER OF

NO.

AN ORDINANCE AMENDING CHAPTER IX

ORDINANCE NUMBER 0-18112 (NEW SERIES)

AN ORDINANCE AMENDING CHAPTER IX, ARTICLE 3, DIVISION 2, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 93.0208 RELATING TO WATER-CONSERVING PLUMBING STANDARDS.

A Memorandum Decision was issued on March 28, 1991, by United States District Court Judge Rudi Brewster in concluding the penalty phase of a lawsuit filed by the United States and the State of California against The City of San Diego (Civil Case No. 88-1101-B) over violations of the Clean Water Act. The Memorandum Decision requires that The City of San Diego undertake specific water conservation activities, including the adoption of an ordinance on or before January 1, 1992, that would require the installation of water-conserving plumbing fixtures upon change of property ownership or bathroom remodel. On November 25, 1991, the San Diego City Council adopted San Diego Municipal Code section 93.0208, in compliance with Judge Brewster's Memorandum Decision.

The amendments to Section 93.0208 proposed by this ordinance are intended to clarify language which has created difficulties in enforcing Section 93.0208.

A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 C Street, San Diego, CA 92101.

INTRODUCED ON NOVEMBER 14, 1994. Passed and adopted by the Council of the City of San Diego on NOVEMBER 28, 1994.

AUTHENTICATED BY:

SUSAN GOLDING
Mayor of The City of San Diego, CA
CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, CA

(SEAL)

By MAYDELL L. PONTECORVO, Deputy

Pub. Dec. 12

806292

I, Corey Donahue, am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NUMBER 0-18112

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

DEC. 12

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 12TH day of DEC., 1994.

Corey Donahue

(Signature)

3" x 2" = #84.48