

# This presentation premiered at WaterSmart Innovations

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# Implementing an Effective Time-of-Sale Toilet Replacement Program


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# Presentation Overview

- Why have a Time-of-Sale program?
  - The Real Estate industry's perspective
  - Tracking property sales and enforcement: the keys to program effectiveness
  - Elements of our ordinance
  - Information systems
  - Education
  - Outcome/Effectiveness
- 

# What do we mean by “Time-of-Sale”?

Requirement that buildings be retrofitted with low consumption plumbing fixtures when real estate is sold

## SCMC 16.03 – Plumbing Fixture Retrofit Regulations

- 1.6 gpf toilets
- 2.5 gpm showerheads
- 1.0 gpf urinals



# Who is affected?

Retrofit regulations apply to all types of property in the 3 jurisdictions served by the City:

- Residential
- Commercial
- Industrial



# Why have a Time-of-Sale Program?

Reduce long-term demand for potable water in order to ensure a reliable and adequate public water supply



# Why have a Time-of-Sale Program?

## 1. Large water savings:

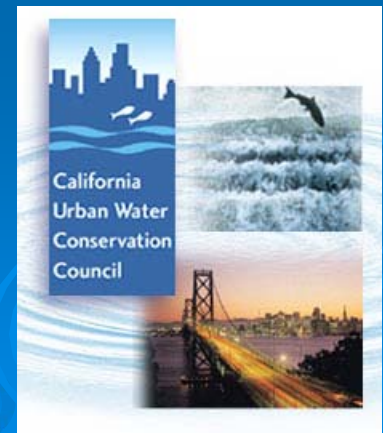
Toilet replacement offers the greatest potential savings of any indoor residential water use. Time-of-sale accelerates fixture replacement

## 2. Relatively low cost to utility:

Majority of costs are borne by property owners

## 3. BMP 14:

For signatories to MOU, *“programs shall be at least as effective as requiring toilet replacement at time of resale”*



# Other Benefits

- Demonstrates utility's commitment to the community its seriousness to promote and pursue water use efficiency
- Gives decision-makers the true sense that its agency is maximizing water conservation





# Real Estate Industry's Perspective

Philosophically object to process:

- adds **complication** and **cost** to home sales transactions
- **inefficient** in getting all members of community to comply
- **unfair** by placing burden on home buyers and sellers
- turns Realtors into **police**

CAR constantly fending off new proposals:

- Water and energy conservation
- Sewer lateral repair
- Various home safety and seismic improvements
- Wood burning stoves
- Sidewalk repair

# Real Estate Industry's Perspective

Prefer different approach:

- Voluntary programs
- Incentives
- City-assisted programs
- Remodeling requirements

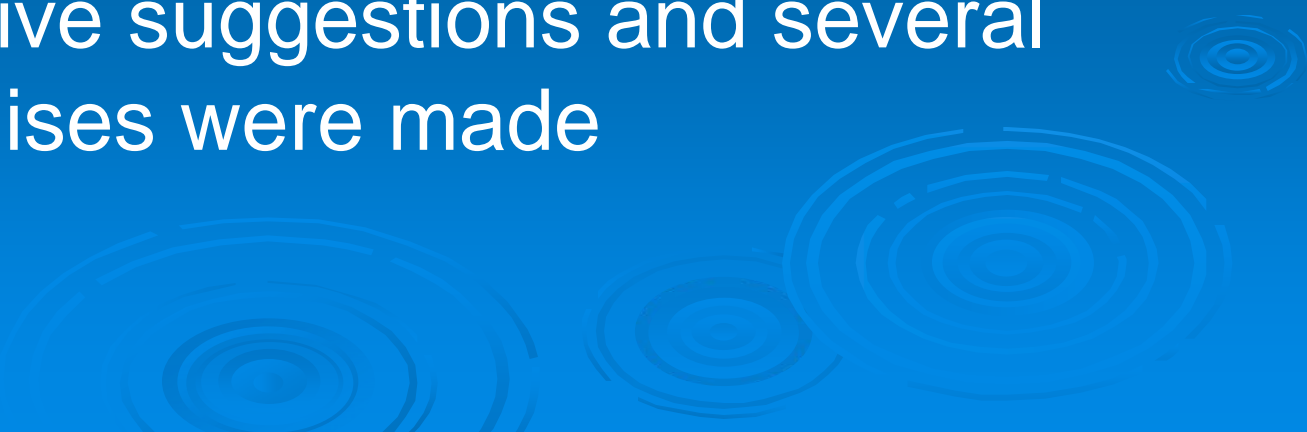
***Anything but **time-of-sale!*****



# Two-Step Process

1. Talked with our local Association of Realtors early on
2. Later, brought a draft ordinance to get feedback and listen to their concerns

Realtors Association offered many constructive suggestions and several compromises were made



# Enforcement: The Key to Program Effectiveness

The most critical question to ask during program design:

Will the time of sale regulation be enforced?

If the answer is **yes**, the questions become:

- How will it be enforced?
- How will property sales be tracked?

# Tracking Sales

Many different ways real estate is transferred

Key is to isolate **sales** from other types of transfers, such as:

- foreclosure
- exchange
- administration of an estate
- transfer of real estate into a trust
- change in the manner in which title is held
- interspousal transfers



# Tracking Sales

A sale has to be defined in such a way that it is available as public information

Two key characteristics:

1. Instrument for transfer is a **Grant Deed**
2. Sale involves **money** (“consideration”)

Actual sale price is **not** public information;

Documentary transfer tax on deed is used as a surrogate (\$1.10 per \$1,000 value)

# Tracking Sales

Variety of sources on real estate information are commercially available

Enables a utility to search for all parcels that sold:

- In a given month,
- In a certain geographic area,
- Using a grant deed,
- For a price

# Basic Requirements

When required: **time-of-sale**

Whose responsibility: **seller**

What's required:

1. replace any older plumbing fixtures
2. have property inspected
3. obtain water conservation certificate



# Verification Inspection

Physical inspection by:

- Water Conservation Representative (free)
- Licensed Plumbing or Building Contractor

Inspection waived if:

1. Rebate program records show building has already been fully retrofitted
2. County Assessor's records show building constructed in 1994 or later

# Enforcement

Enforcement process involves a series of 3 letters to new owner over 5 - 7 months, ending in a “**Notice of Violation**” recorded against the property.

Recordation stays until new owner wishes to refinance or sell.



# Enforcement Challenges

- Investment property/transfers between co-owners
- New owners want to remodel/demolish
- Some people are just really attached to the existing old toilets!

# Financial Incentive

\$75 - 150 rebate available in first three months

Rebate offer ends once second enforcement letter is sent

Rebate opportunity **significantly** improves compliance



# Option to Transfer Responsibility

Alternative method that allows buyer to choose fixtures they want

Buyer is allowed **90 days** from close of escrow to complete retrofit



# What if Seller Fails to Retrofit?

Buyer becomes responsible for retrofitting

In these cases, the buyer has usually received a credit from the seller to take care of the retrofit

If not, there is a provision that seller is civilly liable for up to \$250 per fixture or the actual cost of the retrofit

# Protections for Real Estate Agents

Not held liable for compliance

Transfer of title is not affected





# Information Systems

Microsoft Access - [PFR MasterList]

File Edit View Insert Format Records Tools Window Help

Type a question for help

Status Arial 8 B I U

### Master List Form

Return to Main Menu

Search Notification Letters

**Search Criteria**

APN:   
 Water Acct:   
 No Wtr Acct  
 Address:   
 City:   
 Owner Name:   
 Cert ID:   
 Jurisd:   
 Requires Review

Status:   
 NOC ToR Letter Sent  
 New  
 NOC Letter Sent  
 NOV Letter Sent  
 Intent Letter Sent  
 Recorded  
 Cancelled  
 Certified

Sale Date Range  
 Start:   
 End:   
 Cert Date Range  
 Start:   
 End:

AND  OR

Clear Search

	Status	APN	Wtr Acct	City	Address
▶	Certified	032-152-24-	086-2720	Santa Cruz	330 36th Ave
	Certified	032-152-23-	086-2730	SANTA CRUZ	360 36TH AVE
	Certified	032-073-08-	086-3450	Santa Cruz	611 36th Ave
	Certified	032-113-38-	086-3525	Santa Cruz	579-581 36th Av
	Certified	032-113-05-	086-3565	Santa Cruz	511 36th Ave
	Certified	032-143-04-	086-3650	SANTA CRUZ	427 36TH AVE
*					

New Print Delete Cancel Save

Summary Property Verif/Enforc Owners Comments History

APN   
 Water Acct   
 Status

Property Address  
  
 City   
 Zip Code   
 Comments:

**Next Actions:**  
 Type   
 Date  <  
 Rvw Date  <

Status/Actions Help

**Sale**      **Certification**

Sale Date       Cert Date   
 Sale Doc #       Cert # 2005-

**ToR**      **MetroScan**  Mult MS  
 ToR Date       MS Date

Record:  1 of 6 (Filtered)

Form View

# Information Systems

Microsoft Access - [qryPSOwners]

File Edit View Tools Window Help

Type a question for help

Fit Close Setup

Water Conservation Office\* 800 Connor Street, Santa Cruz, San 100, CA 95060 \* Phone: (831) 420-5230

Dalego Family Trust  
3180 Mulberry Drive  
Sequel CA 95075

March 21, 2006  
Site Date: 1/20/2006  
Account No.: 081-1540  
Parcel Number: 001-152-14

**NOTICE OF CORRECTION**  
for 3420-3422 Garden Street East  
Santa Cruz CA 95062

Dear Property Owner:

Plumbing Fixture Retrofit regulations\* require all residential, commercial, and industrial buildings receiving water from the City of Santa Cruz to be retrofitted with low consumption plumbing fixtures at the time any real estate is sold.

According to information obtained from the County Recorder's office, the property referenced above was sold during the month of January. The Water Conservation Office has no record, however, of a water conservation certificate, which verifies compliance with the new plumbing fixture regulations, being issued for this property.

Normally the seller is responsible for retrofitting the property, but if the seller failed to do so, the ordinance requires that the buyer bring the property into compliance.

This letter is to inform you that, as the new property owner, it is your responsibility to replace any older, high consumption toilets and shower heads on the property with fixtures that meet the low consumption standards, to arrange for an inspection, and to obtain a water conservation certificate within ninety (90) days from the date of this letter. After the 90 days, the property will no longer be eligible for toilet rebates.

This is a Mark certificate form that provides more information about the plumbing fixture regulations and, on the back of the form, instructions for getting the certificate signed off by the Water Department. Failure to do so may result in a notice of violation being recorded against the property. Additional information is available on-line at the city's water conservation web site [www.ci.santa-cruz.ca.us/water.html](http://www.ci.santa-cruz.ca.us/water.html). Contact the Water Conservation Office at 420-5230 if you have any further questions or if you have reasons to believe that the information in this letter is incorrect. We are here to answer your questions and to help you with the process of getting your property certified.

Thank you for your prompt attention to this matter.

Cadison Brennan  
Water Conservation Representative

\* Santa Cruz Municipal Code 16.05, Santa Cruz County Code 7.74, and Capitola Municipal Code 15.02

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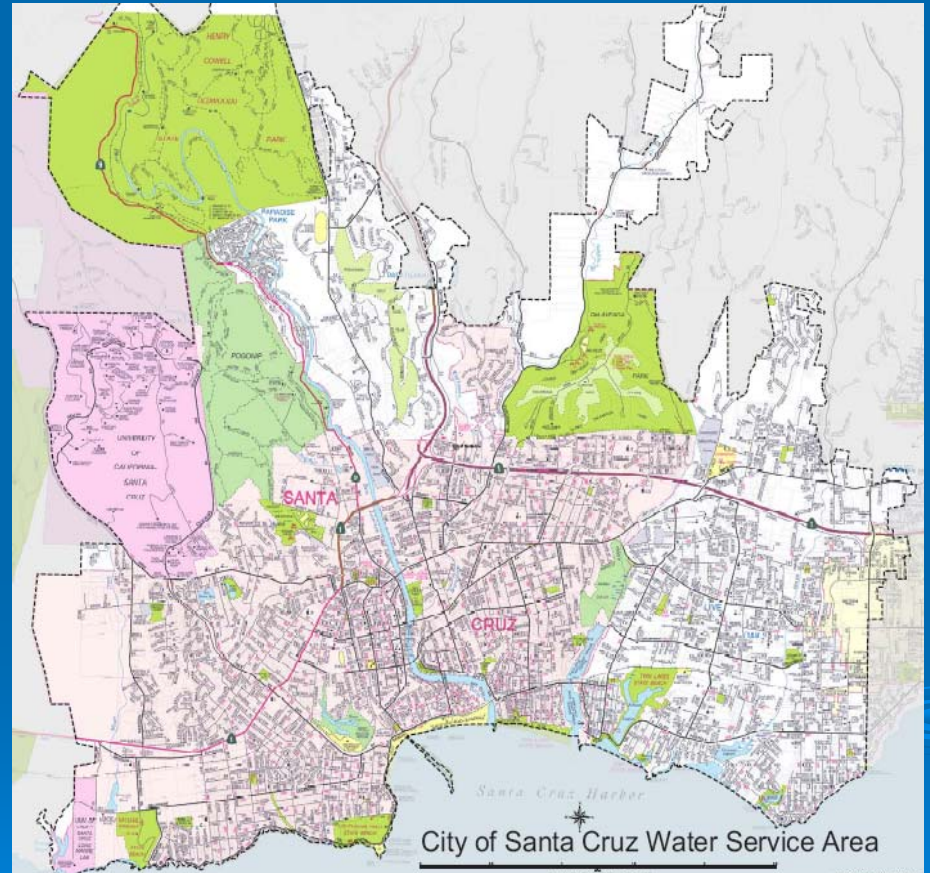
Ready

# Realtor Education

Presentations at dozens of Real Estate Agency meetings

1 year for everyone to become familiar with program

Respond daily to individual inquiries



# Effectiveness

Processed a total of 5,200 properties

Certified about 4,700 properties  
(about 1,000 per year)

About  $2/3$  of all properties are in compliance  
at time-of-sale

By end of process, compliance rate is 98%  
only 2% currently have a violation recorded  
against their property

# Effectiveness

Replacement rate:

in residential buildings 50%

in commercial buildings 63%

About 6,000 toilet fixtures replaced

Conservative estimate of water savings  
to date: 41+ million gallons per year

Program goal: 100 million gals per year

# In Summary

## Effectiveness due to:

- Ability to track property sales
- Verification inspection
- Appropriate incentives and enforcement mechanisms
- Efficient information systems
- Courteous, responsive customer service



# For more information:

## Contact:

Toby Goddard

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