

AN ORDINANCE OF THE COUNCIL OF THE CITY OF BURBANK ADDING ARTICLE 15 TO TITLE 5, CHAPTER 3 OF THE BURBANK MUNICIPAL CODE TO ESTABLISH A RETROFIT UPON RESALE PROGRAM FOR WATER EFFICIENCY IN RESIDENTIAL AND COMMERCIAL BUILDINGS.

1505

City Attorney's Synopsis

This Ordinance adds Article 15 to Title 5, Chapter 3 of the Burbank Municipal Code to establish a Retrofit Upon Resale program. The Ordinance applies to all users of potable water service and prescribes water efficiency requirements for specific plumbing fixtures that must be met at the time of transfer of real property.

THE COUNCIL OF THE CITY OF BURBANK FINDS:

- A. The City of Burbank (City) owns and operates a municipal water system that provides potable water to retail customers in the community through its municipal utility department known as Burbank Water and Power.
- B. The City's primary sources of water are locally produced ground water, and water imported from the State Water Project and the Colorado River by the Metropolitan Water District.
- C. It is desirable and in the best interests of the water users within Burbank's City limits to conserve and protect existing water supplies against waste and unreasonable uses.
- D. Water supply conditions exist from time to time that may require the reduction of the community's consumption of water.
- E. A Retrofit on Resale Ordinance will help achieve long term reductions in water usage by removing and replacing older and inefficient plumbing fixtures in residential and commercial customer sites that are in the process of being sold.

THE COUNCIL OF THE CITY OF BURBANK DOES ORDAIN AS FOLLOWS:

1. Article 15 is hereby added to Title 5, Chapter 3 of the Burbank Municipal Code, to read as follows:

Sec. 5-3-1501. Short Title.

This Article shall be known and be cited as the "Retrofit on Resale Ordinance."

Sec. 5-3-1502. Statement of Policy and Purpose.

- A. **Policy.** It is desirable and in the interests of the general welfare of the City that the water resources available to the City be put to maximum beneficial use to the extent possible and that waste, unreasonable use or unreasonable method of use be prevented, and that conservation of such water resources be exercised in a reasonable and beneficial manner for the residents and businesses of Burbank. It is recognized that residential and commercial buildings may have older inefficient water fixtures that can be replaced with newer more efficient fixtures that save this precious resource as well as reduce the overall costs to the customers and the City
- B. **Purpose.** This article provides for the replacement of plumbing fixtures or installation of water saving devices when a residential, commercial or industrial property is sold or is subject to a transfer of ownership, with certain exceptions. The measures defined in this article will help provide for dependable and long term water demand reduction benefiting the community.

Sec. 5-3-1503. Application.

- A. The provisions of this article shall apply to all residential, commercial, and industrial buildings served by the City whenever the title to real property is conveyed from the seller to the buyer; provided, however, that nothing in this article shall require an expenditure greater than one tenth of one percent (0.1%) of the selling price in any single sales transaction on retrofit measures required to achieve compliance.
- B. The provisions of this article shall apply to all properties connected to potable water service in the City and all those for which an application is submitted for new water service for a property as defined in subsection (c) of this section.
- C. The following transfers and properties are exempted from the provisions of this article:
1. The purchase or transfer of real property between spouses, including, but not limited to, transfers to a trustee for the beneficial use of a spouse, or the surviving spouse of a deceased transferor, or by a trustee of such a trust to the spouse of the trustor; transfers to a spouse which take effect upon the death of a spouse; transfers to a

- spouse or former spouse in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation; the creation, transfer or termination, solely between spouses, of any co-owner's interest; and the distribution of a legal entity's property to a spouse or former spouse in exchange for the interest of the spouse in the legal entity in connection with a property settlement agreement or a decree of dissolution of a marriage or legal separation;
2. The purchase or transfer of real property between parents and their children, including both voluntary transfers and transfers resulting from a court order or judicial decree;
 3. Buildings that are designated historical buildings or structures designated as a Historic-Cultural Monument, on or determined to be eligible for the California Register of Historic Resources, or on or determined eligible for the inclusion in the National Register of Historic Districts;
 4. Residential properties with bathroom fixtures that are integrated into a unique, defined architectural style considered to have architectural or historic significance, including toilets color-coded to match ceramic tile. The existing toilet must be an original fixture of the same age as the structure;
 5. Properties in which a documented plumbing design condition will not allow the installation of more efficient fixtures;
 6. Properties for which a certificate of compliance has been previously issued pursuant to this article;
- E The seller of the property shall be responsible for complying with the requirements of this article and certifying such by signature on a certificate of compliance for the property before the close of escrow. The certificate of compliance shall be on a form approved by the General Manager of Burbank Water and Power and made available to the public on the Burbank Water and Power website.
- F. The seller's and buyer's real estate agent, real estate broker, or real estate sales person involved in the transfer of property title subject to this ordinance, shall give written notice to the seller and the buyer of the requirements of this article prior to the close of escrow and transfer of property title.
- G. The seller and buyer shall each certify compliance with the article by signing the certificate of compliance. A signed copy of the certificate of compliance shall be included in the transfer documentation.
- H If the property is sold by the owner without representing agents, seller will provide buyer with a signed certificate of compliance, where seller attests to

compliance with this article to the buyer. Both seller and buyer will be required to sign the certificate of compliance. A signed copy of the certificate of compliance shall be included in the transfer documentation.

Sec. 5-3-1504. Retrofit Measures.

Prior to entering into an agreement of sale or contracting for an exchange of any real property improved with residential, commercial, or industrial buildings, or when an escrow agreement has been executed in connection therewith, prior to the close of escrow, each seller shall:

- A. Replace all noncomplying toilets with toilets that flush with a maximum of 1.6 gallons per flush (Ultra Low Flush Toilets). In lieu of replacement, a seller may modify a noncomplying toilet with the installation of a dual flush toilet conversion kit that reduces water usage to a maximum of 1.6 gallons per flush
- B. Replace all noncomplying urinals with urinals that flush with a maximum of 1.0 gallons per flush. In lieu of replacement, a seller may modify a noncomplying urinal with the installation of a urinal conversion kit that reduces water usage to a maximum of 1.0 gallons per flush.
- C. Equip all showers with showerheads having a flow rate not to exceed 2.5 gallons per minute. This requirement shall not apply to any emergency shower installed for health or safety purposes that cannot safely operate with a maximum flow rate less than 2.5 gallons per minute.
- D. Replace all bathroom faucet aerators with aerators having a flow rate not exceeding 2.2 gallon per minute.
- E. Replace all kitchen faucet aerators with aerators having a flow rate not exceeding 2.2 gallons per minute.

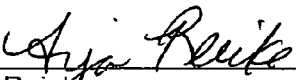
2. If any phrase, section, sentence, or word of this Ordinance is held invalid by a court of competent jurisdiction, such invalidity shall not affect any other phrase, section, sentence, or word of the Ordinance that can be given effect without the invalid phrase, section, sentence, or word, and to this end each phrase, section, sentence, or word of this Ordinance is declared to be severable.

3. This project is categorically exempt from the provisions of the California Environmental Quality Act under Section 15061(b)(3) of the State CEQA Guidelines in that it can be seen with certainty that there is no possibility the proposed project would have a significant effect on the environment. The General Manager of Burbank Water and Power or his designee, shall execute and cause a Notice of Exemption to be filed with the County Clerk of the County of Los Angeles pursuant to the California Environmental Quality Act.

4. The City Clerk shall certify to the passage of this Ordinance and cause it to be published once in a newspaper of general circulation, published and circulated within (14) days of adoption, in the City of Burbank, California

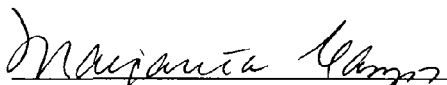
5 This Ordinance shall become effective at 12:01 a.m. of the thirty-first day after adoption.

PASSED AND ADOPTED this 20th day of July, 2010.



Anja Reinke
Mayor of the City of Burbank

Attest:



Margarita Campos, CMC, City Clerk

Approved as to Form and Legal Content
Dennis A Barlow, City Attorney

By: 

Richard J. Morillo
Senior Assistant City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF BURBANK)

I, Margarita Campos, CMC, City Clerk of the City of Burbank, do hereby certify that the foregoing Ordinance No. 3786 was duly and regularly passed and adopted by the Council of the City of Burbank at its regular meeting held on the 20th day of July, 2010, by the following vote:

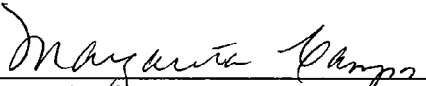
AYES: **Council Members Bric, Golonski and Talamantes.**

NOES: **Council Member Gordon.**

ABSENT: **Council Members None.**

RECUSED: **Council Member Reinke.**

I further certify that said Ordinance was published as required by law in a newspaper of general circulation in the City of Burbank, California on the 28th day of July, 2010.



Margarita Campos, CMC, City Clerk