



# TOWN OF FAIRFAX

## STAFF REPORT

### February 3, 2016

**TO:** Mayor and Town Council

**FROM:** Jim Moore, Director of Planning and Building Services  
Garrett Toy, Town Manager *GT*

**SUBJECT:** Second reading and adoption of an Ordinance of the Town of Fairfax Amending Town Code Chapter 17.132, Water Conservation, Reducing the Effective Flush Volumes for Newly Installed Toilets and for Toilets on Properties Involved in Sales or Transfers from 1.6 to 1.28 Gallons; or consider revisions and conduct the first reading of the revised Ordinance

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#### **RECOMMENDATION**

- 1) Waive second reading and read by title only and adopt Ordinance No. 796, an Ordinance of the Town of Fairfax amending Town Code Chapter 17.132, Water Conservation, reducing the effective flush volumes for newly installed toilets and for toilets on properties involved in sales or transfers from 1.6 to 1.28 gallons or
- 2) Consider revisions and conduct the first reading for the revised Ordinance.

#### **BACKGROUND**

Both the Marin Municipal Water District (MMWD) Code section 13.02.021(3) B.4 and the California Plumbing Code (CPC) Chapter 4, Section 403.2.1, require toilets that flush with 1.28 gallons or less. A 20% savings from the Town's current maximum of 1.6 gallons (e.g., per Chapter 17.132). Therefore, the attached Ordinance No. 796 revises sections 17.132.030 and 17.132.040 where it reads "1.6" gallons per flush to "1.28" gallons per flush (gpf) for newly installed toilets and for toilets on properties involved in sales or transfers.

#### **DISCUSSION**

On October 15, 2015, the Planning Commission adopted Resolution No. 15-34 after holding a duly-noticed public hearing, recommending the Town Council adopt the Amendments to Town Code Chapter 17.132, Water Conservation.

On November 4, 2015, at a duly-noticed public hearing, the Town Council introduced and read by title only Ordinance No. 796. The second reading and the adoption of Ordinance No. 796 was scheduled for the December 2, 2015 Council meeting, but was pulled from the agenda because of concerns raised by the Marin Association of Realtors (MAR).

Specifically, MAR is concerned that the proposed Ordinance will cause delays in escrow due to the new 1.28 gpf requirement for toilets as lenders may require sign-offs as a condition of escrow. The Town's resale inspection report currently indicates homes must have toilets that do not exceed 1.6 gpf. In general, most homes meet that requirement. However, if this ordinance is adopted, staff anticipates most homes will not meet the 1.28 gpf requirement and most likely will require resale re-inspections to confirm the standard is met. The provision that toilets must meet the 1.6 gpf standard prior to sale or transfer of property was added in 2001 to the Town Code.

MMWD reports that their current policy is to require the replacement of a toilet that does not meet the 1.28 gpf requirements whenever a plumbing permit is pulled. In essence, MMWD has placed the burden on municipalities to enforce this standard. As a matter of practice, staff does require all plumbing permits that move, add, or replace their toilets (e.g., bathroom remodel) to meet the current 1.28 gpf standard. Otherwise, for any type of building permit (which includes plumbing) not associated with adding, moving, or replacing toilets, we require property owners to self-certify (on a form) that they are meeting the California Plumbing Code (CPC) requirements for water-conserving fixtures (e.g., toilets) and fittings. This approach is similar to how other communities address the requirement.

One option for the Council to consider is to only change the 1.6 gpf to 1.28 gpf requirement for Section 17.132.030 and not for Section 17.132.040 which affects the resale inspection report standard. Should the Council prefer this option, it could not conduct the second reading because of the revision. In essence, the Council would be revising the Ordinance and conducting a first reading for the revised Ordinance so that the recommend action would be as follows:

“Introduce and waive first reading and read by title only Ordinance No. 796, an Ordinance of the Town of Fairfax amending Town Code Chapter 17.132, Water Conservation, reducing the effective flush volumes for newly installed toilets from 1.6 to 1.28 gallons”

The second reading would occur at the Council’s March meeting.

If Ordinance No. 796 is adopted as presented, the ordinance will take effect in 30 days.

#### **CEQA REVIEW**

The adoption of Ordinance No. 796 is exempt from the California Environmental Quality Act per 14 C.C.R. § 15061(b)(3), and 14 C.C.R. § 15308.

#### **FISCAL IMPACT**

None

#### **ATTACHMENTS**

1. Ordinance No. 796
2. Resale Pre-Inspection Checklist

**ORDINANCE NO. 796**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX AMENDING  
FAIRFAX TOWN CODE CHAPTER 17.132, WATER CONSERVATION:  
REDUCING THE EFFECTIVE FLUSH VOLUMES FOR NEWLY INSTALLED TOILETS  
AND  
FOR TOILETS ON PROPERTIES INVOLVED IN SALE OR TRANSFERS  
FROM 1.6 TO 1.28 GALLONS**

**WHEREAS**, the Town Council wishes to implement certain water conservation policies set by the Fairfax 2010-2030 General Plan; and

**WHEREAS**, the Marin Municipal Water District (MMWD) Code section 13.02.021(3) B.4 and the California Plumbing Code (CPC) Chapter 4, Section 403.2.1, both now require toilets that flush with 1.28 gallons or less; and

**WHEREAS**, the Town Council desires to amend the Town's Code to reflect these changes, a 20% savings from the Town's current maximum of 1.6 gallons (per Town Code § 17.132.040);

**WHEREAS**, this Ordinance is exempt from further review under the California Environmental Quality Act ('CEQA,' as codified at Public Resources Code §§ 15000, et seq., and as further governed by the CEQA Guidelines, found at 14 California Code of Regulations §§ 21000, et seq.) per 14 C.C.R. § 15061(b)(3), as it can be seen with certainty that adoption of this Ordinance has no possibility of having a significant effect on the environment, and 14 C.C.R. § 15308, as adoption of this Ordinance is an action taken by the Town of Fairfax, in its capacity as a regulatory agency, for the protection of natural resources.

**NOW, THEREFORE**, The Town Council of the Town of Fairfax does ordain as follows:

**SECTION 1:** Section 17.132.030 of the Fairfax Town Code is hereby amended to read as follows:

"Whenever a toilet (water closet) is replaced, added, or moved under a plumbing permit issued by the town, the rated water usage on the new toilet shall not exceed 1.28 gallons per flush or as required by the CPC as amended and adopted by the Town Council."

**SECTION 2:** Section 17.132.040 of the Town Code is hereby amended to read as follows:

"All structures in Fairfax, in all zoning districts, shall have all of their toilets (water closets) whose rated water usage exceeds 1.28 gallons per flush, replaced with water conserving toilets not exceeding 1.28 gallons per flush, or as required by the CPC as amended and adopted by the Town Council, prior to the sale or transfer of the property."

**SECTION 3:** This Ordinance shall be effective 30 days following its adoption by the Town Council. Copies of this Ordinance shall, within fifteen days after its passage and adoption, be posted in

three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices; 2. Bulletin Board, Fairfax Post Office; 3. Bulletin Board, Fairfax Women's Club building.

The foregoing Ordinance was introduced at a regular meeting of the Town Council on the 4th day of November 2015, and duly adopted at the next regular meeting of the Town Council on the \_\_ day of \_\_\_\_\_ 2016, by the following vote, to wit:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Renée Goddard, Mayor

Attest:

\_\_\_\_\_  
Michele Gardner, Town Clerk

\_\_\_\_\_  
Date

## Resale Pre-Inspection Checklist

The following is a partial list of minimum Life Safety Requirements that will be addressed at your scheduled resale inspection. This is only a partial list of requirements that may apply to your property, and is only intended to assist you in correcting deficiencies prior to the resale inspection should you choose. Please contact the Fairfax Building Division at 458-2370 if you have any questions related to building permit requirements.

- A 1-Hour fire rated assembly is required between the garage and dwelling unit (from floor to roof sheathing) consisting of 5/8" type X sheet rock on garage side. Doors from the garage to the dwelling unit must be minimum 1-3/8" solid core, with self-closing hardware (CBC Table 3-B and 302.4).
- No openings are allowed between garage and sleeping areas (CBC 312.4).
- All appliances installed in garage that generate a glow, spark or flame shall be located 18" above the floor. Provide protective post or other impact barrier from cars as needed (CMC 308.1, 308.4).
- Maintain a clearance of 30" wide X 36" deep in front of electrical panels. Breakers and fuses must be clearly and permanently labeled (CEC 110-16a, 110-22).
- GFCI outlets are required: for all kitchen receptacles, in bathrooms, under-floor spaces, garages, and exterior outlets (CEC 210-8).
- Furnaces installed in attics and crawl spaces must have an access platform (catwalk in attics), light, switch and receptacle in the space. Provide a receptacle with fusible link for furnace.
- Smoke detectors are required in each bedroom, outside of each bedroom, and one on each floor level, to include basements. Older dwellings that require smoke detectors may be battery operated. (CBC 310.9.1).
- Temperature and Pressure relief valve must be installed on all water heaters and drained full size to the exterior within 6" and 24" above grade. Water heaters installed in enclosed spaces require a minimum 24" wide door for access. (CPC 511, 608).
- Provide seismic strapping to water heaters to prevent tipping. One strap is required in the upper 1/3 of the tank and one in the lower 1/3 of the tank, 4" above controls (CPC 510.5).
- Water closet shall be 1.6 gallon type and located in a space not less than 30" in width, with 24" min. clearance in front (CBC 2904).
- Showers and tubs with showers require a non-absorbent surface up to 70" above the drain outlet. Provide curtain or approved enclosure material (CBC 807.1.3).
- Fully tempered or laminated safety glass is required in bathtub and shower enclosure doors and panels (and window glazing where sill height is less than 5 ft. above floor level (CBC 2406.4).
- Provide anti-siphon valves on all hose bibs (CPC 603.4.7).
- Provide combustion air for all gas fired appliances per CMC Chapter 7.
- Gas water heaters are not allowed in areas opening into a bathroom, closet or bedroom (CPC 509).
- Dryer vents must vent to the outside of building (not to under-floor area). Vent length not to exceed 14' or increase vent size.
- A grippable handrail is required at all stairways with four or more risers. Handrail height must be 34"-38" measured from the toe of the tread. Grips must be 1-1/4" -2"; ends shall return to wall or newel post. (CBC 1003.3.3.6).
- Sliding glass doors shall be safety glass. See CBC 2406 for other hazardous locations.
- A minimum 36" landing is required on both sides of all doors and exits (CBC 1003.3.1.6).
- Guardrails are required if deck or platform is 30" above grade or more at any point. Provide a minimum 36" high railing with maximum openings less than 4" (CBC 509.1).