



# CITY COUNCIL AGENDA STATEMENT



January 5, 2021

File ID: 20-0407

## **TITLE**

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING CHAPTER 15.26 OF THE CHULA VISTA MUNICIPAL CODE TO ESTABLISH ENERGY BENCHMARKING AND CONSERVATION REQUIREMENTS FOR MULTIFAMILY AND COMMERCIAL BUILDINGS (FIRST READING)

## **RECOMMENDED ACTION**

Council place the ordinance on first reading.

## **SUMMARY**

In 2018 the State of California adopted Assembly Bill 802 requiring commercial and multifamily buildings above 50,000 square feet to benchmark their energy consumption annually using Energy Star Portfolio Manager and disclosing that information to the State. Energy benchmarking is the measuring of a building's energy consumption and comparing it to similar buildings in similar climate zones. The Energy Star program is designed to assign a score to each benchmarked building on a scale of 1-100. This rating is similar to the Miles Per Gallon (MPG) rating of a car in that it tells you how energy efficient a particular building is. A rating of 50 indicates that the building, from an energy consumption standpoint, performs better than 50% of all similar buildings nationwide, while a rating of 75 indicates that the building performs better than 75% of all similar buildings nationwide. Conversely, seeing that a building uses more energy than 80 or 90% of similar buildings can be a convincing indicator for building improvements.

In September 2017, City Council adopted the 2017 Climate Action Plan (CAP) to help address the local threat of climate change by reducing greenhouse gas (GHG) emissions and lowering Chula Vista's vulnerability to expected climate change impacts. The CAP includes a strategy to create more energy-efficient buildings by requiring energy-savings retrofits in existing buildings. Benchmarking facilitates building performance reporting and public disclosure, with the goal of creating efficient buildings and the potential for ordinances to conserve energy. To better represent the building stock in the city and to maximize a reduction in greenhouse gas emissions, staff propose to exceed the AB802 requirements by lowering the threshold to buildings 20,000 square feet and above and to require potential cost-effective upgrades for existing commercial and multi-family properties. Most buildings below 50,000 square feet in Chula Vista are older and less efficient, so there are many opportunities for improvement. The proposed benchmarking requirement and potential requirement for upgrades for existing multi-family and commercial properties above 20,000 square feet are intended to support that effort and align with the strategy outlined in the CAP.

Some of the key benefits of this ordinance include reducing GHG emissions in Chula Vista, lowering the carbon footprint of existing multi-family and commercial buildings, helping building owners save money through cost-effective efficiency measures and improving the quality of Chula Vista's building stock. Additional benefits include helping building owners understand and manage their buildings' energy use and educating tenants and real estate professionals about building energy performance. City staff plan to collect the data and report to the State on behalf of the City's building owners to help improve their performance over time. Having access to Chula Vista multi-family and commercial building data in this manner will allow staff to provide educational outreach tailored to individual building owners and be able to track opportunities for energy efficiency programs, as it can often be a challenge to gain access on local building data.

### **ENVIRONMENTAL REVIEW**

The Development Services Director has reviewed the proposed Project for compliance with the California Environmental Quality Act (CEQA) and has determined that the Project qualifies for a Class 8 Categorical Exemption pursuant to Section 15308 (Actions by Regulatory Agencies for Protection of the Environment) of the state CEQA Guidelines. The proposal seeks to help address the local threat of climate change by reducing greenhouse gas (GHG) emissions and lowering vulnerability to anticipated climate change impacts. Thus, no further environmental review is necessary. In addition, notwithstanding the foregoing, the Development Services Director has also determined that the Project qualifies for an Exemption pursuant to Section 15061(b)(3) of the California Environmental Quality Act State Guidelines.

### **BOARD/COMMISSION/COMMITTEE RECOMMENDATION**

The Sustainability Commission (SSC) on August 10th, 2020 supported the proposed requirements.

### **DISCUSSION**

In 2018 the State of California adopted Assembly Bill 802 requiring commercial and multifamily buildings above 50,000 square feet to benchmark their energy consumption annually using Energy Star Portfolio Manager and disclosing that information to the State. Energy benchmarking is the measuring of a building's energy consumption comparing it to similar buildings in similar climate zones. The Energy Star program is designed to assign a score to each benchmarked building, on a scale of 1-100. This rating is similar to the Miles Per Gallon (MPG) rating of a car in that it tells you how energy efficient a particular building is. A rating of 50 indicates that the building, from an energy consumption standpoint, performs better than 50% of all similar buildings nationwide, while a rating of 75 indicates that the building performs better than 75% of all similar buildings nationwide. Conversely, seeing that a building uses more energy than 80 or 90% of similar buildings can be a convincing indicator for building improvements.

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commercial and multi-family properties. Most buildings below 50,000 square feet in Chula Vista are older and less efficient, so there are many opportunities for improvement.

This proposed ordinance is designed to meet provisions under AB 802 for a local program exemption, meaning buildings subject to AB802 will no longer be required to report the state, and will instead submit their benchmarking report to the City. Having access to data on Chula Vista buildings in this manner will allow the City to offer tailored programming and assistance to building owners, with the goal of reducing GHG emissions and minimizing climate change impacts. In turn, the City will annually remit benchmarking data in bulk to the California Energy Commission for applicable Chula Vista buildings on their behalf.

This proposed ordinance is intended to align with the strategy laid out in the CAP and to increase compliance with AB802. Parameters include the following:

- Require commercial buildings 20,000 square feet and above to benchmark their energy consumption annually using Energy Star Portfolio Manager
- Enhance market transparency for building efficiency by making energy performance data available online and requiring buildings to disclose performance to existing and prospective owners and tenants
- Require low performing buildings to implement cost effective measures to improve their energy performance
- Require buildings to measurably improve their energy performance over each 5-year period or undertake an audit
- If the least efficient buildings do not make efficiency progress on their own by the second 5-year deadline, they will be required to make minimum improvements (10-15%) identified as cost-effective in their audit
- For Multifamily Buildings:
  - Require one-time prescriptive upgrades inside older multifamily rental units where tenants pay energy bills
  - Limit audits to buildings with significant owner-paid energy use
- Gradually phase-in requirements to give the affected buildings, energy performance industry and City staff time to build capacity
- Allow flexibility for buildings to take different paths to efficiency and exemptions for buildings that are already relatively efficient
- Avoid requiring upgrades that are not cost-effective

Some of the key benefits of this ordinance include reducing GHG emissions in Chula Vista, lowering the carbon footprint of existing multi-family and commercial buildings, helping building owners save money through cost-effective efficiency measures and improving the quality of Chula Vista's building stock. Additional benefits include helping building owners understand and manage their buildings' energy use and educating tenants and real estate professionals about building energy performance.

Not all currently required buildings in Chula Vista have been reporting to the state since AB802 was enacted and with this ordinance, staff will be able to provide assistance with benchmarking and create educational opportunities on the process. Having a local benchmarking ordinance will increase the compliance with the

state’s requirements. The proposed benchmarking ordinance targets building owners versus the tenants of those buildings, as owners are the ones making decisions on larger building systems like HVAC, insulation and lighting. Since buildings are one of the largest sources of a city’s carbon emissions, similar ordinances have been adopted by at least 30 cities in the United States with the intent to mitigate and reduce emissions, and a few are shown in table 1 below:

**Table 1: Other cities that have adopted a benchmarking ordinance**

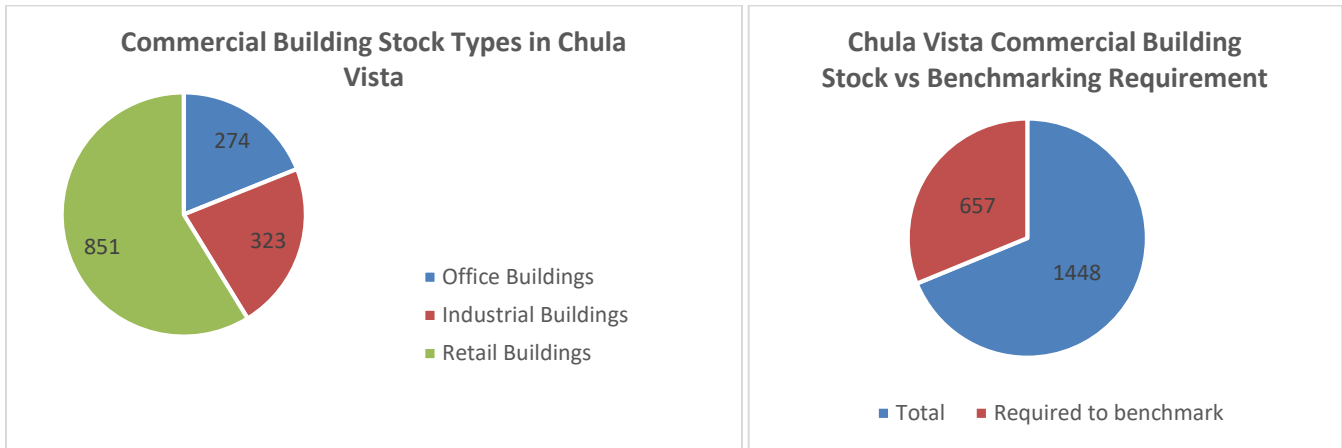
City/State	Adopted	Covers Multifamily	Min. Building Size (sqft)	Benchmarking	Public Disclosure	Audit Req.	Minimum Performance Standard
Berkeley, CA	2015	✓	none	✓	✓	✓	
Salt Lake City, UT	2017		25,000	✓	✓	✓	
Edina, MN	2019	✓	25,000	✓	✓	✓	
Reno, NV	2019	✓	30,000	✓	✓	✓	
Boulder, CO	2015	✓	10,000	✓	✓	✓	✓
Los Angeles CA	2015	✓	20,000	✓	✓	✓	
Washington DC	2012; 2018	✓	10,000	✓	✓	✓	✓
San Jose, CA	2018	✓	20,000	✓	✓	✓	
<b>PROPOSED Chula Vista</b>	-	✓	20,000	✓	✓	✓	✓

**Building Performance Ordinances**

Building performance ordinances (BPOs) start by getting energy performance information in the hands of building owners and users. This improves market transparency and facilitates management of building energy costs. Buildings that are relatively energy efficient tend to be rewarded when the market can more easily value their lower energy costs. Similarly, for buildings that make steady energy efficiency progress, BPOs strengthen the incentive to improve. On average, buildings that benchmark each year see a steady decline in utility costs and energy consumption of about 2-3% per year. For less energy efficient buildings that do not experience progress after a few years of benchmarking, Chula Vista’s BPO creates a pathway for implementing energy efficiency improvements that make financial sense. Lower performing buildings that do not meet performance targets by their fifth benchmarking year will be required to conduct energy audits to identify savings opportunities. Following an audit, those building owners are given another 5 years to make minimum improvements identified by the audit that pay for themselves in a reasonable amount of time. In Chula Vista multifamily, commercial and industrial buildings over 20K square feet are emitting 113,000 mtonsCO2e/year. The ordinance is projected to reduce these emissions by 6% after 10 years and 8% after 15 years.

**City of Chula Vista Proposed Multifamily and Commercial Energy Benchmarking Ordinance**

The proposed Energy Benchmarking Ordinance requires that buildings 20,000 square feet and above, approximately 47% of the commercial building stock in Chula Vista, benchmark their energy consumption using Energy Star portfolio manager and report to the City annually. Buildings would be required to meet a threshold and if they do not perform, they will be required to conduct an audit and implement energy efficiency improvements by year 10 of benchmarking.



**Table 2: Proposed Requirements**

	Who	What	When
<b>Benchmark</b> (Compare energy use to similar buildings in similar climates)	All	Submit Energy Data	Annually from 2021
<b>Disclose</b> (Report consumption and ENERGY STAR data to the City of Chula Vista)	All	Provide benchmarking report to current and prospective owners and tenants	Starting 2021
<b>Audit</b> (Conduct a study of building system to identify issues)	Buildings with ENERGY STAR score below 80 that do not meet Performance targets after 5 years of benchmarking (10 – 30% energy use reduction)	Conduct an ASHRAE Level I audit (Including Retro Commissioning where appropriate)	Every 5 years starting 2026
<b>Improve</b> (Based on the audit apply improvements that are cost effective with a convenient ROI)	<i>Buildings with ENERGY STAR score below 65 that do not meet Minimum Improvement requirements after 10 years of benchmarking 10 – 30% energy use reduction)</i>	Apply effective measures identified in the audit in order to reduce energy consumption	<i>Every 10 years beginning 2031</i>

### Improvement Targets of the proposed Chula Vista Multifamily and Commercial Energy Benchmarking Ordinance

The following performance targets aim to help those older buildings that have outdated equipment or less efficient insulation, windows and lights. By tracking the energy consumption, owners can assess what would be most convenient for them to choose to improve their performance. In these instances, the building owner will consider cost effectiveness and return on investment (ROI) compared to utility costs. For example, a building that scores between 0 and 45 points tells us that either the operator made a mistake inputting the information on the ENERGY STAR website, or that the building is old and has outdated equipment that needs to be tuned up or replaced. By learning what the performance is and the possible ways to improve it, a building owner becomes aware and will improve the issues keeping in mind return on investment compared to current energy bills.

Baseline Year ENERGY STAR Score (For the commercial and Multifamily Buildings)	EUI Improvement Target (Energy Use per Square Foot)
0 - 45	30%
46 – 65	20%
66 -79	10%
80+	None

**Benefits of implementation of the proposed ordinance**

Benchmarking has a wide range of benefits, including the following:

- Building owners can save money through cost-effective efficiency measures and benchmarking can help building owners to better understand and manage their buildings’ energy use.
- Being able to measure building energy consumption against similar buildings and against their own history helps building operators make more informed decisions.
- Education of tenants and real estate professionals about building energy performance because of the increase in property values of a more energy efficient building
- Allow owners to market buildings in compliance as efficient and high performing.
- Improve the quality of Chula Vista’s commercial building stock
- Reduce greenhouse emissions and help inform future energy programs and services by staff which is in line with the 2017 Climate Action Plan.
- City staff will be able to help building owners take advantage of rebates and incentives and will provide feedback on what building owners could be doing to improve their building’s performance.

**Exemptions**

These proposed energy efficiency requirements will affect about 47% of multifamily and commercial buildings are an effort to bring existing buildings closer to the energy efficiency of current energy code for new buildings, keeping in mind that all new commercial buildings will be required to install photovoltaic panels by year 2030 per California energy code. The required updates are cost effective energy efficiency measures that have been adopted by other cities and have been widely available for years. The ordinance requirements will serve to building owners and staff as a tool to improve the energy efficiency of buildings in the City reducing carbon emissions and boosting building values. The Owner may receive an exemption from filing a Benchmarking Report for a reporting year, subject to Conservation Section approval, by submitting evidence in accordance with guidelines set forth by the Conservation Section that any of the following conditions apply:

- The entire Property did not have a Certificate of Occupancy or Temporary Certificate of Occupancy for at least half of the year required to be Benchmarked.
- The entire Property was not occupied, due to renovation, for at least half of the year to be Benchmarked.
- A demolition permit for the entire Property has been issued and demolition work has commenced.
- The Property did not receive Energy or water services for at least half of calendar year required to be Benchmarked.
- The Property is in Financial Distress.
- Disclosure of the Property Energy usage data would result in the release of proprietary information that can be characterized as a trade secret or would otherwise violate a customer's right to privacy under the California Constitution or other applicable law.

### **COVID-19 And impacts on the proposed ordinance**

COVID-19 has impacted the commercial building stock and City staff plans to take this in consideration when establishing a baseline year and will follow State recommendations. In addition, City staff is open to any Council recommendation regarding COVID 19 and the impact on the commercial buildings. City staff recognizes the struggles all businesses are experiencing during this time and wants to help building owners and businesses lower their operating costs without burdening them with additional requirements. However, it is important to lower carbon emissions in the City and implement the Council-approved Climate Action Plan.

### **Next Steps**

Once City Council adopts the Multifamily and Commercial Energy Benchmarking Ordinance, staff will submit the ordinance for approval by the California Energy Commission (CEC). City staff will also begin working on outreach and education and will create an associated website to house this information. Staff will assist building owners with their ENERGY STAR account set up, as needed. Buildings will have to be benchmarked and must report to the City by May 20<sup>th</sup> of each year.

### **DECISION-MAKER CONFLICT**

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the real property holdings of the City Council members do not create a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision-maker conflict of interest in this matter.

### **CURRENT-YEAR FISCAL IMPACT**

Based on the number of buildings that would be covered under this ordinance and the amount of time needed to assist with benchmarking disclosure and to implement outreach and education to the building owners, this is estimated to cost approximately \$89,000 annually. However, as the bulk of the work



implementing this ordinance takes place from January 1 to June 30 annually, 75% of the total estimated cost is \$66,750, which would impact the current fiscal year budget and would be covered by the general fund.

### **ONGOING FISCAL IMPACT**

Staff will prepare a fee study and will track the ongoing fiscal impact in order to create a proposed annual benchmarking fee which would cover the implementation costs. The fee will be subject to adjustment annually based on full cost recovery. Preliminary analysis estimates the fee level to be approximately \$110 per property. This fee will cover administrative costs like assistance with reporting, education of building owners and trainings and will offset the general fund impact. This expected fee amount is minimal compared to the size and value of the building. Buildings will gain conspicuous utility savings over time that will surpass the fee charged by the City. Other cities like Berkeley and Los Angeles charge an administrative fee.

### **ATTACHMENTS**

- 1) Conservation and Energy Benchmarking Ordinance
- 2) Conservation and Energy Benchmarking Ordinance Summary
- 3) Conservation and Energy Benchmarking Ordinance Overview
- 4) Memo - Cost Effectiveness of Audits and Retro-Commissioning

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