

ORDINANCE NO. _____

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

WHEREAS, City Council directed staff to convene a Climate Change Working Group (CCWG) to develop recommendations to reduce the community's greenhouse gas emissions; and

WHEREAS, the CCWG recommended twelve climate protection measures, including requiring energy-savings retrofits in existing buildings at a specific point in time, which were included in the 2017 Climate Action Plan; and

WHEREAS, as a component of the 2017 Climate Action Plan, staff proposed developing a residential and commercial energy conservation ordinance for City Council consideration; and

WHEREAS, on September 26, 2017, City Council adopted the 2017 Climate Action Plan and directed staff to implement the measures based on funding levels; and

WHEREAS, through its 2017 Climate Action Plan, the City committed to reducing greenhouse gas emissions to 15% below 2005 levels by 2020 and 55% below 2005 levels by 2030; and

WHEREAS, through its 2016 Greenhouse Gas Inventory, approved May 26, 2020, the City's 2016 emissions were 12% below 2005 levels; and

WHEREAS, the State of California passed Assembly Bill 802 in 2015, codified in California Public Resources Code section 25402.10; establishing annual energy benchmarking requirements for certain buildings larger than 50,000 sqft and creating a path for building owners to access whole building data from utilities under certain conditions; and

WHEREAS California Code of Regulations Title 20 Division 2 Chapter 4 Article 9 Section 1684 (3) established an exemption for properties that benchmark under local benchmarking programs meeting the requirements of Section 1684 (b)

WHEREAS, staff is presenting to Council an ordinance amending Chapter 15.26 of the Municipal Code and adding Section 15.26.050 requiring multifamily and nonresidential buildings of at least 20,000 square feet to annually benchmark energy use, disclose energy performance information and periodically undertake audits or energy upgrades; and

WHEREAS, California Code of Regulations, Title 24, Part 1, Sections 10-106 and 10-110, establish a process for local governments to apply to the CEC for a determination that a locally adopted building energy efficiency standard meets the requirements of Public Resources Code Section 25402.1(h)(2); and

WHEREAS, Pursuant to Sections 17958 and 18941 of the Health and Safety Code, before making any modifications to the California Building Standards Code, the City must make an express finding that such modifications are reasonably necessary because of local climatic, geologic or topographical conditions. Modifications to the California Building Standards and Building Energy Efficiency Standards, as detailed in this Ordinance, are reasonably necessary due to local climatic conditions. As a result of high summer ambient temperatures and periods of heat waves, average load demand and peak load demand of energy used in Chula Vista is an important factor concerning public safety and adverse economic impacts of power outages or power reductions. Reduction of total and peak energy use, as a result of incremental energy conservation measures required by this Ordinance, will have local and regional benefits in the cost-effective reduction of energy costs for the building owner, additional available system energy capacity, and a reduction in greenhouse gas emissions; and

WHEREAS, the City affirms that the requirements below will require buildings to be designed to consume no more energy than permitted by California Building Code; and

WHEREAS, this Ordinance is intended to preserve and enhance the environment of the City of Chula Vista and is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines, because there is no possibility that the ordinance may have a significant negative impact on the environment. The proposed ordinance is exempt from the requirements of CEQA pursuant to Section 15308 of the CEQA Guidelines, which exempts actions taken by regulatory agencies for the enhancement and protection of the environment; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Chula Vista hereby adopts this resolution and directs staff to prepare and present for City Council consideration proposed local amendments to future versions of California Energy Code requiring increased local energy efficiency standards and the necessary future cost-effectiveness studies, consistent with this resolution.

NOW THEREFORE the City Council of the City of Chula Vista does ordain as follows:

Section I.

Chapter 15.26 of the Chula Vista Municipal Code is hereby amended by addition of the sections 15.26.050 as follows:

15.26.050 Mandatory Benchmarking and Conservation Requirements for Multifamily and Commercial Buildings

A. *Purpose and Intent.* It is the purpose and intent of this section to promote ongoing energy conservation in buildings in order to reduce GHG emissions resulting from energy consumption.

B. *Applicability.* This section applies to Properties within the City of Chula Vista with a Gross Floor Area of at least 20,000 square feet, and having either (i) no residential utility accounts, or (ii) five or more active utility accounts of one utility type, at least one of which is residential. An overview of the applicability of select ordinance requirements appears in Table 15.26.050(B) below.

Table 15.26.050(B) Applicability Overview

Section	Nonresidential Properties	Multifamily Properties
Benchmarking Requirements Section 15.26.050 (D)	Applies	Applies
Direct Disclosure and Public Disclosure Requirements Section 15.26.050 (E)	Applies	Applies
Conservation Requirements Section 15.26.050 (F) (1-4, 7, 8)	Applies	Applies to Properties with Significant Common Load
Minimum Improvement Requirements Section 15.26.050 (F) (5)	Applies	Applies to Properties with Significant Common Load
Multifamily Prescriptive Upgrades Section 15.26.050 (F)(6)	Not Applicable	Applies to buildings constructed before 2006 for rental tenant spaces where utility costs are borne by tenant
Compliance Schedule, Records Maintenance, and Failure to Comply Sections 15.26.050 (G), (H) and (I)	Applies	Applies

EXEMPTIONS: Properties owned by any of the following are exempt from Section 15.25.050:

- (a) the County of San Diego;
- (b) the State of California;
- (c) the United States of America;
- (d) the Metropolitan Transit Service; or
- (e) the Chula Vista and Sweetwater School Districts.

C. Definitions. For purposes of this Section, the following terms shall have the following meanings:

“Audit Template” means the U.S. Department of Energy’s (DOE) online application for entering, validating and submitting data generated by an American Society of Heating Refrigerating and Air-Conditioning Engineers ("ASHRAE") 211 audit and Retro-Commissioning, located at <https://buildingenergyscore.energy.gov/>.

"Base Building Systems" means the systems and subsystems of a building that use or distribute Energy or water or impact the Energy or water consumption, including the building envelope; the heating, ventilating and air conditioning (HVAC) systems; air conveying systems; electrical and lighting systems; domestic hot water systems; water distribution systems; plumbing fixtures and other water-using equipment; and landscape irrigation systems and water features. Base Building Systems shall not include:

1. Systems or subsystems owned by a tenant or for which a tenant bears full maintenance responsibility, that are within the tenant's leased space and exclusively serve such leased space, and for which the tenant pays all the Energy and water bills according to usage and demand as measured by a meter or sub-meter;
2. Systems or subsystems owned by a residential unit Owner that exclusively serve the residential unit of that Owner;
3. Systems or subsystems that operate industrial applications such as manufacturing.

"Baseline Year" means a Covered Property's first year submitting a Benchmarking Report pursuant to this section or CA Assembly Bill 802 if applicable, or, the most recent year a Covered Property was subject to the Conservation Requirements, whichever is later.

“Benchmark” means to complete and electronically submit the Chula Vista Benchmarking Report via ENERGY STAR Portfolio Manager.

“Benchmarking Report” The report generated by ENERGY STAR Portfolio Manager when a completed Chula Vista Benchmarking Report is submitted to the City, including both the information required to be input into ENERGY STAR Portfolio Manager and the information generated by ENERGY STAR Portfolio Manager.

“Conservation Section” means the City of Chula Vista’s Office of Sustainability Conservation Section.

“Covered Property” means a Property that meets the applicability requirements of this section.

"Energy" means electricity, natural gas, steam, heating oil, or other products sold by a utility to a customer of a building, or renewable on-site electricity generation, for purposes of providing heat, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities.

“Energy Audit” means systematic evaluation to identify potential modifications and improvements to a building's equipment and systems which utilize energy in order to optimize a building’s overall energy performance.

“EUI” or “Energy Use Intensity” means the Energy consumed per square foot of a building per year, as calculated by ENERGY STAR® Portfolio Manager® by dividing the total Energy consumed by the building in one (1) year (measured in kBtu or GJ) by the total Gross Floor Area of the building.

“EUI-WN” or “Weather-normalized Energy Use Intensity” means the weather-normalized Energy consumed per square foot of a building per year, as calculated by ENERGY STAR Portfolio Manager by dividing the total weather normalized Energy consumed by the building in one (1) year (measured in kBtu or GJ) by the total Gross Floor Area of the building.

"ENERGY STAR Certified" means a building which has earned an ENERGY STAR® Score of 75 or higher, indicating that it performs better than at least seventy-five percent (75%) of similar buildings nationwide and completed an ENERGY STAR Certification application and received EPA approval.

“ENERGY STAR Portfolio Manager” means the U.S. Environmental Protection Agency’s (EPA) online application for measuring, tracking, and managing a building's Energy, water and greenhouse gas emission data and benchmarking it’s performance, located at <https://www.energystar.gov/>.

"ENERGY STAR Score" means a number ranging from 1 to 100 assigned by the EPA's ENERGY STAR Portfolio Manager as a measurement of a building's Energy efficiency, normalized for a building's characteristics, operations, and weather, according to methods established by US EPA's ENERGY STAR® Portfolio Manager.

“Financial Distress” means a Property that:

1. Had arrears of property taxes or water or wastewater charges that resulted in the Property's inclusion, within the prior two (2) years, on the City's annual tax lien sale list; or
2. Has a court appointed receiver in control of the asset due to financial distress; or
3. Is owned by a financial institution through default by the borrower; or

4. Has been acquired by a deed in lieu of foreclosure; or
5. Has a senior mortgage subject to a notice of default.

“Gross Floor Area” or “GFA” means the total number of square feet measured between the principal exterior surfaces of enclosing fixed walls. This includes all fully enclosed space within areas inside the outside surfaces of the exterior walls of the building(s) including lobbies, tenant areas (occupied and unoccupied), common areas, meeting rooms, offices, break rooms, atriums (count the base level only), restrooms, elevator shafts, stairwells, mechanical equipment areas, basements, storage rooms, mechanical space such as boiler rooms, elevator shaft, hallways, stairwells, and connecting corridors between buildings. This does not include exterior spaces, balconies, patios, exterior loading docks, driveways, covered walkways, outdoor play courts (tennis, basketball, etc.), parking, open-air stairwells, breezeways, interstitial plenum space between floors (which house pipes and ventilation), or crawl spaces.

“High Performance Building” A Property that submitted a Benchmarking Report for its most recent benchmarking compliance deadline and either (i) achieved a Verified ENERGY STAR Score of 80 or greater or (ii) achieved ENERGY STAR Certification, or (iii) achieved LEED Existing Building Certification for three (3) of five (5) preceding years.

“Industrial Occupancy” means any building or portion thereof classified under occupancy groups F-1 and F-2 (“Factory and Industrial”) or H-1, H-2, H-3, H-4, and H-5 (“High Hazard”) under California Code of Regulations Title 24 Section 302 (2016) as amended.

“Master Metering” or “Master Metered” means measuring a buildings electricity or gas consumption for the purposes of utility billing from multiple tenant units together, rather than using individual meters or sub-meters for each dwelling units.

“Mechanical Equipment” means centralized building systems or devices, that are fixed in a location for uses associated with structures, and relating to water use, drainage, heating, ventilating, air conditioning, and similar purposes.

“Multifamily Property” means a residential Property that contains five (5) or more Multifamily Dwelling Units.

“Nonresidential Property” means a Property or part thereof used for purposes other than human habitation.

“Owner” An individual, individuals, or entity possessing title to a Property, the board of directors, or managing partners in the case of a cooperative apartment corporation, association, or partnership, or a master tenant in a triple net lease arrangement, or the authorized representative thereof.

“Previous Baseline Year” means a Covered Property's first year submitting a Benchmarking Report pursuant to this section or CA Assembly Bill 802 if applicably, or, the second to last year in which the Covered Property was subject to the Conservation Requirements, whichever is later.

“Property” means any of the following:

1. A single building;
2. A campus of two (2) or more buildings which are owned and operated by the same party, have a single shared primary function, and consisting of:
 - a. Buildings that are behind a common utility meter or served by a common mechanical/electrical system (such as a chilled water loop) which would prevent the Owner from being able to easily determine the Energy use attributable to each of the individual buildings; and/or
 - b. Buildings or parts of buildings that have an individual Gross Floor Area of less than 20,000 square feet.

"Retro-Commissioning" means a systematic process for optimizing existing systems relating to building performance through the identification and correction of deficiencies in such systems.

“Significant Common Load” means a multifamily residential with Master Metering, Mechanical Equipment or where the total non-rentable portion of the Gross Floor Area is 10,000 square feet or more.

“Site EUI (Energy Use Intensity)” means the Site Energy Use divided by the property's Gross Floor Area as calculated by ENERGY STAR® Portfolio Manager®.

“Site Energy Use” means the total amount of all the energy a property consumes on-site, regardless of the source, as calculated by ENERGY STAR® Portfolio Manager®. It includes energy purchased from the grid or in bulk (which are the amounts on utility bills), as well as renewable energy generated and consumed on-site such as from solar and wind (excess renewable energy generate on-site and sold to the utility is excluded from site energy use).

“Source EUI (Energy Use Intensity)” means the Source Energy Use divided by the property's Gross Floor Area as calculated by ENERGY STAR® Portfolio Manager®.

“Source Energy Use” means the total amount of raw fuel that is required to operate a property, as calculated by ENERGY STAR® Portfolio Manager®. In addition to what the property consumes on-site, Source Energy Use includes losses that take place during generation, transmission, and distribution of the energy.

"Verified ENERGY STAR Score" means an ENERGY STAR Score based on data that has been verified by a Professional Engineer (PE) or Registered Architect (RE).

D. *Benchmarking Requirements.* Owner shall Benchmark in accordance with the following on or before the compliance deadlines specified in Section 15.26.050(G)(1):

- (1) Establish an ENERGY STAR Portfolio Manager account (if Owner has not already done so), add Covered Properties completing all required fields (if Owner has not already done so), and maintain current all required fields.
- (2) Annually collect data, according to the schedule set forth in Section 15.25.050(F)(1)(a) related to the property's total energy usage for the entire prior calendar year in accordance to the latest guidance under Building Energy Use Data Access, Benchmarking, and Public Disclosure Regulations, California Code of Regulations, Title 20, Division 2, Chapter 4, Article 9, Section 1680, and following, including, but not limited to, those related to obtaining customer consent.
- (3) Annually submit an energy benchmarking to the Conservation Section report according to the schedule set forth in Section 15.25.050(F)(1)(a). The energy benchmarking report shall be generated using ENERGY STAR Portfolio by responding to the Conservation Section's designated Data Request for the appropriate compliance year.
- (4) Benchmarking Reports shall at minimum include the following:
 - a. Descriptive Information. Basic descriptive information to track and report a property's compliance with this Chapter, including, but not limited to, the property address(es), Gross Floor Area, property type, year(s) built, and the individual or entity responsible for the Benchmarking Report; and
 - b. Energy Information. Information necessary to Benchmark Energy usage shall be determined by the Conservation Section and shall include, at a minimum, the following information and derivatives thereof:
 - i. The ENERGY STAR Portfolio Manager ENERGY STAR Score for the property, and ENERGY STAR certification status, where available; and
 - ii. The weather-normalized Site and Source Energy Use (kBtu) and Energy Intensity (EUI) per unit area per year (kBtu per square foot per year) for the property; and

- iii. The Site and Source Energy Use (kBTU), and Energy Use Intensity (EUI) per unit area per year (kBTU per square foot per year) for the property; and
- iv. The annual carbon dioxide equivalent emissions due to Energy use for the Property as estimated by ENERGY STAR Portfolio Manager; and
- v. Monthly and annual Site energy use by energy type and share of energy use supplied by on and off-site renewables.

(5) Starting in 2023, Owners may be assessed an annual Benchmarking Filing Fee to recover the costs of implementation, enforcement, administration and infrastructure for this Section. The City Manager may adjust the Benchmarking Filing Fee annually.

(6) Owners shall run the Data Quality Checker available within ENERGY STAR Portfolio Manager and shall correct all missing or incorrect information as identified by ENERGY STAR Portfolio Manager prior to submitting the Benchmarking Report to the City.

(7) Exemptions from Benchmarking Requirements.

- a. The Owner may receive an exemption from filing a Benchmarking Report and remitting the Benchmarking Filing Fee 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:
 - i. 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; or
 - ii. The entire Property was not occupied, due to renovation, for at least half of the year to be Benchmarked; or
 - iii. A demolition permit for the entire Property has been issued and demolition work has commenced; or
 - iv. The Property did not receive Energy or water services for at least half of calendar year required to be Benchmarked; or
 - v. The Property is in Financial Distress; or
 - vi. 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.

E. Direct Disclosure and Public Disclosure Requirements. Properties shall comply with Sections 15.26.050(E)(1), (2), and (3) below.

- (1) Direct Disclosure of Benchmarking Report. Owners shall provide a web link or hard copy to their most recent Benchmarking Report to:
 - a. Existing tenants and current owners with an interest of 5% or more, within 90 days of annual Benchmarking compliance deadline.
 - b. Prospective buyers prior to close of sale and prospective tenants prior to lease signing or lease renewal.
- (2) Direct Disclosure of Audit and Retro-Commissioning Reports. Owners shall provide Energy Audit and Retro-commissioning Reports produced for compliance with Section 15.26.050(F)(4), if applicable, to all existing residential and nonresidential tenants within 90 days of the Conservation compliance deadline. Owners shall confer with any nonresidential tenants that pay utility costs, identifying energy efficiency investment opportunities and assessing the potential for mutually beneficial co-investment arrangements in accordance with procedures established by Conservation Section within 180 days of the Conservation compliance deadline.
- (3) Public Disclosure. The City will make data public.
 - a. The Conservation Section shall make the following information available to the public on the internet, as reported by Owners, and update the information at least annually:
 - i. Summary statistics on overall compliance with Section; and
 - ii. Summary statistics on overall energy consumption of Covered Properties subject to this Section derived from annual benchmarking reports; and
 - iii. For each building subject to this Section:
 - iv. Address and property use type(s); and
 - v. Annual summary statistics derived from the submitted benchmarking report, including all information required under Section 15.26.050(D)(4).

- b. Exemption. Properties with more than half of Gross Floor Area used for Industrial Occupancy are exempt from the Public Disclosure requirements (Section 15.26.050(E)(3)).

F. Conservation Requirements. Conservation Requirements apply according to the compliance deadlines specified in Section 15.26.050(G). Properties meeting the requirements for a High Performing Building (Section 15.26.050(C)) are exempt from all requirements in Section 15.26.050(F).

- (1) Multifamily properties are subject to the Multifamily Prescriptive Measure requirements (Section 15.26.050(F)(6)) by their first five (5) year Conservation Requirement deadline. In addition, multifamily properties with Significant Common Load must meet *either* the Performance Targets (Section 15.26.050(F)(3)), *or*, the Audit Requirement (Section 15.26.050(F)(4)) and Minimum Improvement requirement (Section 15.26.050(F)(5)).
- (2) Non-residential must meet *either* the Performance Targets (Section 15.26.050(F)(3)), *or*, the Audit Requirement (Section 15.26.050(F)(4)) and Minimum Improvement requirement (Section 15.26.050(F)(5)).
- (3) Performance Targets. Every five (5) years demonstrate that:
 - a. Property has decreased its Site EUI-WN by at least the Improvement Target in Table 15.26.050(F)(3)(a) below from Baseline Year;

Table 15.26.050(F)(3)(a)

Baseline Year ENERGY STAR Score	Improvement Target
0-45	30%
46-65	20%
66-79	10%
80+	None

- b. Or if Property was not eligible for an ENERGY STAR Score in the baseline year, Property has reduced its weather-normalized Site EUI by at least the Improvement Target in Table 15.26.050(F)(3)(b) below from Baseline Year.

Table 15.26.050(F)(3)(b)

Baseline Year Site EUI-WN (kBtu / sf / year)	Improvement Target
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80+	30%
51-79	20%
19-50	10%
0-18	None

- c. Tables 15.26.050(F)(3)(a) and 15.26.050(F)(3)(b) shall be updated periodically by the Conservation Section subject to City Council approval.
- (4) Audit Requirement. Every five (5) years an Energy Audit and Retro-Commissioning shall be performed in accordance with the following specifications.
- a. Energy Audit and Retro-Commissioning Specifications
 - i. Audit Type. A Level 1, or greater, Energy Audit in conformance with the current ASHRAE Standard 211 “Commercial Building Energy Audits” at the time the Audit is initiated. Before Owners choose an ASHRAE Level 1 Energy Audit they must obtain also obtain a quote for a more extensive audit and discuss the additional value with the audit provider. Owner’s shall document fulfillment of this requirement as specified by the Conservation Section.
 - ii. Retro-Commissioning. Retro-commissioning requirements shall be performed in accordance with industry standard practices, including current ASHRAE Guideline 0.2 “Commissioning Process for Existing Systems and Assemblies” at the time the Retro-Commissioning is initiated.
 - 1. Applicability. Retro-commissioning requirements shall apply to properties that meet all of the following:
 - a. At least 50,000 square feet of conditioned space;
 - b. Existing Mechanical Equipment;
 - c. Digital controls in place that are repairable or in good working order in the opinion of the auditor.
 - 2. Exemption. Properties that have experienced major changes in operations during prior six months or have planned to make major changes in the following year.
 - 3. The Retro-Commissioning of the Base Building Systems shall include, at minimum, the following:

- a. Heating, ventilation, air conditioning (HVAC) systems and controls; and
 - b. Indoor lighting systems and controls; and
 - c. Water heating systems; and
 - d. Renewable energy systems.
- iii. **Audit Professional Qualifications.** Audits shall be signed and performed directly by or under the direct supervision of, an individual whose job duties do not regularly occur at the Property and who has two or more years of auditing experience and possesses one or more of the certifications specified in Table 15.26.050(F)(4)(v) or other qualifying certifications as specified by the Conservation Section.
- iv. **Retro-Commissioning Professional Qualifications.** Retro-Commissioning shall be performed directly by or under the direct supervision of, an individual whose job duties do not regularly occur at the Property and who has two or more years of auditing experience and possesses one or more of the certifications specified in Table 15.26.050(F)(4)(v) or other qualifying certifications as specified by the Conservation Section.
- v. **Qualifying Professional Certifications.**

Table 15.26.050 (F)(4)(v) Qualifying Professional Certifications

Professional Type	Qualifying Certification
Energy Audit or Retro-Commissioning Professional (any listed)	<ol style="list-style-type: none"> 1. An accredited certification that has been designated a "Better Buildings Recognized Program" by the DOE meeting the criteria set forth in the Better Buildings Workforce Guidelines (BBWG) for Building Energy Auditors or Energy Managers 2. A Professional Engineer (PE) registered in the State of California
Energy Audit Professional (any listed)	<ol style="list-style-type: none"> 1. Certified Energy Auditor (CEA) or Certified Energy Manager (CEM), issued by the Association of Energy Engineers (AEE) 2. Certified Facilities Manager (CFM), issued by the International Facility Management Association (IFMA) 3. System Maintenance Administrator (SMA) or System Maintenance Technician (SMT), issued by Building Owners and Managers Institute (BOMI) International

	<p>4. High Performance Building Design Professional (HBPD) or Building Energy Assessment Professional (BEAP), issued by the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE)</p> <p>5. For Audits of multifamily residential properties only, a Multifamily Building Analyst (MFBA), issued by the Building Performance Institute (BPI)</p>
<p>Retro-Commissioning Professional (any listed)</p>	<p>1. Certified Commissioning Professional (CCP), issued by the Building Commissioning Association (BCA)</p> <p>2. Certified Commissioning Authority (CxA) or Certified Commissioning Technician (CxT), issued by the AABC Commissioning Group (ACG)</p> <p>3. Certified Building Commissioning Professional (CBCP) or Existing Building Commissioning Professional (EBCP), issued by the Association of Energy Engineers (AEE)</p> <p>4. Certified Professional certified by the National Environmental Balancing Bureau (NEBB)</p> <p>5. Commissioning Process Management Professional (CPMP), issued by American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE)</p> <p>6. Accredited Commissioning Process Authority Professional (ACPAP) approved by the University of Wisconsin</p>

vi. Energy Audit and Retro-Commissioning Report. A report (or reports) of the Energy Audit and Retro-Commissioning (where applicable), completed and signed by a qualified Audit Professional and qualified Retro-Commissioning Professional, shall be submitted electronically to the Conservation Section via the Conservation Section’s designated Audit Report Template, or via other means as specified by the Conservation Section. Completed Reports shall include all items designated as required, including but not limited to the following:

1. The date(s) that the Energy Audit and Retro-Commissioning (if applicable) were performed; and
2. Identifying information on the auditor provider (and Retro-Commissioning provider if applicable); and
3. Information on the base building systems and equipment; and

4. A list of retrofit measures available to the Owner that can reduce energy use, and/or cost of operating the Property including:
 - a. costs of each measure; and
 - b. an estimate of the energy and operating cost savings associated with each measure; and
 - c. simple payback of each measure; and
 - d. identification of at least 2 contractors able to perform measure.
5. Identification or recommendation of measures applicable to tenant-controlled spaces, including estimates for energy and operating savings for all affected tenants; and
6. Identification or recommendation of measures needed to meet applicable Performance Targets; and
7. Identification or recommendation of measures needed to meet Minimum Improvement, if applicable.
8. Identification of all rebate, incentive and financing programs available to property and/or in association with specific measures; and
9. If applicable, a list of all the Retro-Commissioning process activities undertaken and retro commissioning measures completed; and
10. A list of all retrofit measures taken (if applicable); and
11. Functional performance testing reports (if applicable); and
12. Operational training conducted (if applicable); and
13. Attestation that an ASHRAE level 2 Energy Audit and (if applicable) ASHRAE 0.2 Retro-Commissioning process were conducted.

(5) Minimum Improvement. Every ten (10) years properties must demonstrate that:

- a. Property has decreased its Site EIU-WN by at least the Mandatory Minimum Improvement in Table 15.26.050(F)(5)(a) below from the Previous Baseline Year;

Table 15.26.050(F)(5)(a)

Baseline Year ENERGY STAR Score	Mandatory Minimum Improvement
0-45	15%
46-65	10%
66-79	None
80+	None

- b. Or, if Property was not eligible for an ENERGY STAR Score in the Previous Baseline Year, Property has decreased its Site EIU-WN by at least the Mandatory Minimum Improvement in Table 15.26.050(F)(5)(b) below from the Previous Baseline Year.

Table 15.26.050(F)(5)(b)

Baseline Year Site EUI-WN (kBtu / sf / year)	Mandatory Minimum Improvement
80+	15%
51-79	10%
19-50	None
0-18	None

- c. Tables 15.26.050(F)(5)(a) and 15.26.050(F)(5)(b) shall be updated periodically by the Conservation Section subject to City Council approval.
- d. Exemption: Owners are not required to complete retrofit measures identified or recommended in the most recent audit report for meeting the Minimum Improvement (per Section 15.26.050(F)(4)(a)(vi)(7)) if those measures have a simple payback greater than 13 years, or have a payback period that exceeds the expected useful life of the retrofit measure. If all measures identified per Section 15.26.050(F)(4)(a)(vi)(7) having a simple payback of 13 years or less, and having an expected useful life that is longer than the payback period, are completed, the Mandatory Minimum Improvement percentage in Table 15.26.050(F)(5)(a) or Table 15.26.050(F)(5)(b), as applicable, is waived.

(6) Multifamily Prescriptive Measures. Multifamily Residential Properties constructed prior to 2006 must perform the minimum number of measures

required in Table 15.25.050(F)(6)(a) within all tenant spaces where utility costs are borne by tenants. Owners may choose any applicable measures from Table 15.25.050(F)(6)(b). Measures already in place shall count toward satisfying the minimum number of measures. Where a measure is not applicable it shall count toward satisfying the minimum number of measures.

Table 15.26.050(F)(6)(a)

Year Built	Climate Zone 7	Climate Zone 10
Pre-1978	Choose four (4) Measures	Choose five (5) Measures
1978-1991	Choose three (3) Measures	
1992-2005	Choose two (2) Measures	

Table 15.26.050(F)(6)(b)

Measure Name	Description
R-38 Attic Insulation	Add attic insulation in buildings with vented attic spaces to meet R-38.
Air Sealing	Apply air sealing practices throughout all accessible areas of the unit. All joints, penetrations and other openings in the building envelope that are potential sources of air leakage shall be caulked, gasketed, weather stripped, or otherwise sealed to limit infiltration and exfiltration. Buildings constructed before 1992 should be sealed to 7 Air Changes per Hour (ACH), and buildings constructed from 1992-2005 should be sealed to 5 ACH, at 50 Pascals pressure difference.
Cool Roof	For steep slope roofs, install a roofing product rated by the Cool Roof Rating Council (CRRC) with an aged solar reflectance of 0.25 or higher and thermal emittance of 0.75 or higher.
Duct Sealing	Air seal any accessible ductwork to meet the requirements of the 2016 Title 24 Section 150.2(b)1E. Units with one or more vented combustion appliances are STRONGLY RECOMMENDED to have a BPI Combustion Appliance Safety Inspection performed after duct sealing.
LED Lighting	Replace low performing screw based lighting with high performing lighting per the requirements of Title 24 Section 150.0(k)1.A,D,G,H and I.

<p>Water Heating Package (if water heater serves individual unit)</p>	<p><u>Water Heater Blanket</u> Add R-6 insulation to the exterior of existing residential tank storage water heaters manufactured before April 2015. Requirement is waived for water heaters with internal tank insulation of at least R-16.</p> <p><u>Hot Water Pipe Insulation</u> Insulate all accessible hot water pipes with R-3 pipe insulation.</p> <p><u>Low Flow Fittings</u> Upgrade sink and shower fittings to meet 2016 CALGreen requirements , which require maximum flow rates of 1.8 gallons per minute (gpm) for showerheads and kitchen faucets, and 1.2 gpm for bathroom faucets.</p>
<p>Windows</p>	<p>Replace existing single pane windows with a dual pane product, which has a U-factor equal to 0.32 or lower and a Solar Heat Gain Coefficient (SHGC) equal to 0.25 or lower. This measure was only evaluated for the pre-1978 vintage, which is assumed to have single-pane, metal-frame windows.</p>
<p>Water Heater Replacement (if water heater serves individual unit)</p>	<p><u>High Efficiency Heat Pump Water Heater:</u> Replace natural gas storage water heater, or, tankless water heater having an Energy Factor of .81 or less, with Heat Pump Water Heater with Uniform Energy Factor (UEF) of at least 3.1 (Northwest Energy Efficiency Alliance Tier 3).</p> <p>-or-</p> <p><u>High Efficiency Tankless Water Heater:</u> Replace natural gas storage water heater, or, tankless water heater having a Energy Factor of .81 or less, with tankless water heater with a minimum Energy Factor of 0.96.</p>
<p>Air Conditioner Replacement</p>	<p><u>High Efficiency Air Conditioner</u> Replace an existing air conditioner having a SEER rating of 13 or less with an air conditioner of at least 18 SEER.</p> <p>-or-</p> <p><u>High Efficiency Heat Pump</u> Replace an existing air conditioner having a SEER rating of 13 or less with a Heat Pump of at least 18 SEER.</p>

- (7) Amortization of Pass-through Costs. Where lease terms allow owners to pass on the costs of complying with this section to lessees, should Owner choose to do so, those costs may not be passed through in bulk. Instead they shall be amortized as follows:

- a. Audit Requirement costs shall be amortized over five (5) years.
 - b. Costs of measure implementation shall be amortized over the expected useful life of the measure.
- (8) Exemptions. The following exemptions apply to the Conservation Requirement:
- a. The Property has been occupied less than five (5) years;
 - b. The Property is in Financial Distress;
 - c. A demolition permit for the entire Property has been issued and demolition work has commenced;
 - d. The Property has not previously been subject to the Benchmarking Requirement.

G. Compliance Schedule. Compliance deadlines for the requirements of this section detailed in Table 15.26.050(G) below. The Conservation Section may grant an extension of time of up to sixty (60) days to file any submittal required by this Section upon request in writing. The Conservation Section may grant an additional extension up to one hundred eighty (180) days upon an application demonstrating evidence of substantial hardship.

Table 15.26.050(G) Compliance Deadlines

Section	Compliance Deadline	
	50,000+ square feet GFA	20,000-49,999 square feet GFA
Benchmarking Requirements Section 15.26.050 (D)	May 20th of each year beginning 2022	March 20th of each year beginning 2022
Direct Disclosure and Public Disclosure Requirements Section 15.26.050 (E) (1-2)	Beginning September 1, 2022	Beginning September 1, 2022
Conservation Requirements Section 15.26.050 (F) (1-4, 7, 8)	Every five (5) years beginning 2023 or later according to a schedule to be determined by the Conservation Section	Every five (5) years beginning 2026 or later according to a schedule to be determined by the Conservation Section
Minimum Improvement Requirements Section 15.26.050 (F) (5)	Every ten (10) years beginning in the year 2028 or later according to a schedule to be	Every ten (10) years beginning in the year 2031 or later according

	determined by the Conservation Section	to a schedule to be determined by the Conservation Section.
Multifamily Prescriptive Upgrades Section 15.26.050 (F)(6)	2023 or later according to a schedule to be determined by the Conservation Section	2023 or later according to a schedule to be determined by the Conservation Section

H. *Record Maintenance.* The Owner shall maintain records related to Benchmarking, Audits and Retro-Commissioning, and Efficiency Improvement Measures including, but not limited to, the Energy and water bills and reports or forms received from tenants and/or utilities. Such records shall be preserved for a period of five years. When the Property is sold, copies of the records shall be given to the new Owner. Ownership of the property in Portfolio Manager must also be transferred to the new owner.

I. *Failure to Comply.* It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this section shall be subject to the following remedies and enforcement measures:

- (1) A Notice of Failure to Comply shall be issued to the Owner specifying the provisions violated and including an order to correct outlining steps necessary to bring Property back under compliance; and
- (2) On the 60th day following issuance of a Notice of Failure to Comply, the following may be issued.
 - a. **Monetary Fines.** Monetary fines may be levied up to the amounts shown in Table 15.26.050(I)(2)(a) on a per incident basis depending on Property GFA.

Table 15.26.050(I)(2)(a) Maximum Fine Amounts

Property Size (square feet)	Amount Per Incident
20,000-49,999 GFA	Up to \$750
50,000-99,999 GFA	Up to \$1,500
100,000+ GFA	Up to \$2,250

- b. **Public disclosure of non-compliance.**

(3) Monetary penalties for non-compliance shall be waived until January 1, 2023.

J. *Implementation Authority.* The City Manager may adopt rules and regulations for the implementation of this section including, without limitation, supplementing the list of qualified measures set forth in table 15.26.050(F)(6)(b) as new energy efficient technologies or materials are developed.

Section II. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section III. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section IV. Effective Date

This ordinance shall take effect on the latter to occur of the following: the 90th day after its final passage, and approval by the California Energy Commission.

Section V. Publication

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by

Approved as to form by

Eric Crockett

Glen R. Googins

Director of Economic Development

City Attorney