



City of Chula Vista

Staff Report

File#: 16-0058, **Item#:** 3.

ORDINANCE NO. 3363 OF THE CITY OF CHULA VISTA AMENDING MUNICIPAL CODE SECTION 20.04.50 - "BUSINESS RESOURCE AND ENERGY EVALUATIONS," STREAMLINING BUSINESSES' REQUIREMENTS FOR PARTICIPATION IN RESOURCE AND ENERGY EVALUATIONS (SECOND READING AND ADOPTION)

RECOMMENDED ACTION

Council adopt the ordinance.

SUMMARY

The proposed amendments to Chula Vista Municipal Code 20.04.050 *Business resource and energy evaluations* (known as the Free Resource and Energy Business Evaluation Program or "FREBE") will help businesses with storefront or office locations to identify opportunities to conserve resources and reduce their monthly utility costs, not creating an impediment to the participating business's regular operations. The modified implementation will align the City's program with the SDG&E program, Business Energy Solutions, which qualifies businesses to participate every five (5) years.

ENVIRONMENTAL REVIEW

Environmental Notice

The Project qualifies for a Class 8 Categorical Exemption pursuant to Section 15308 Actions by Regulatory Agencies for Protection of the Environment of the California Environmental Quality Act State Guidelines.

Environmental Determination

The Director of Development Services 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 because the proposal seeks to implement strategies aimed at reducing energy use and lower fossil fuel emissions. Thus, no further environmental review is necessary.

BOARD/COMMISSION RECOMMENDATION

Not Applicable

DISCUSSION

In 2009, City Council approved an ordinance that mandated businesses, through the annual business

licensing process, participate in an energy and water evaluation of their facilities every three (3) years, the Free Resource Energy and Business Evaluation Program (FREBE). The no-cost FREBE program assists businesses in lowering their monthly utility costs and simultaneously their contributions to greenhouse gas emissions and climate change impacts.

Specifically, businesses occupying a physical storefront or office on a commercial utility meter are required to participate in the evaluation program once every three (3) years.

Staff is recommending amending Chula Vista Municipal Code Chapter 20.04.50 -*Business resource and energy evaluations* - to require the evaluation once every five (5) years for the following reasons:

- Almost all businesses in Chula Vista have gone through an evaluation since 2009.
- 20% of the businesses have taken advantage of the SDG&E energy efficiency Direct Install program having their lights changed at no cost with more efficient ones, and having maintenance completed on their HVAC system.
- SDG&E's new Business Energy Solutions program for energy upgrades is allowed every five (5) years which allows for a better assessment of energy efficiency impacts over time.

Additionally, during the implementation of the FREBE program, some businesses have been fined for failure to comply. In order to align with the Economic Development Department goal to provide the best possible customer service, staff recommends removing the fine component of the ordinance. Businesses would be simply mandated to participate in the program with no monetary enforcement, but rather, monetary enticements in the form of energy savings and cost reduction.

The proposed modifications to the ordinance are as follows:

Chula Vista Municipal Code

Chapter 20.04.050 Business resource and energy evaluations.

All commercial and industrial businesses in the City of Chula Vista are required to participate in a free resource and energy evaluation of their facilities to help them identify energy and water efficiency and conservation opportunities that potentially reduce participants' recurring utility costs and corresponding greenhouse gas emissions. Evaluations are required when a new business license is issued and not more frequently than once every ~~three~~ five years or less frequently than once every five years for a renewed business license. Businesses are required to cooperate with City staff or their delegate(s) by providing: (A) a date and time for the evaluation convenient for the business, (B) access to their facilities for the evaluation during their regular business hours, (C) authorization to review their historical energy and water usage, and (D) a signature by the business's on-site representative on a completed evaluation form acknowledging that the business has received a completed evaluation and relevant information about voluntary energy and water efficiency improvement opportunities. Businesses are not required to complete evaluations for facility areas beyond their operational control. The intent of this section is to provide businesses with a no-cost evaluation.

A. Evaluation Notification Process. For existing licensed businesses, the City will send a written notice not more than once every threefive years through the annual business license renewal package distributed by January 1st. The notice will inform businesses of their evaluation requirement for that calendar year and provide information allowing them to schedule an appointment at their convenience. Businesses will be required to schedule an evaluation for the calendar year by March 1st. For newly licensed businesses, the City will send a written notification about their evaluation requirement for that calendar year and shall provide them with the contact information needed to schedule an evaluation assessment within 60 days. If an existing or newly licensed business does not set an appointment during the initial 60-day scheduling period, the City shall set an evaluation date and time for the business during their regular business hours. If desired, the business may reschedule the evaluation appointment for some time during that calendar year or the next 90 days, whichever is greater.

B. Evaluation Deliverables. The evaluation findings, provided to the participating business on a form established by the City Manager in conjunction with the local utility and business representatives, may include a chart of their historical energy and water consumption, identified conservation and efficiency opportunities, potential utility cost savings and an estimate of the corresponding greenhouse gas emission reductions. The assessment may also review alternative transportation and other sustainable practices which the business could implement and/or promote to its employees and customers and an estimate of the resulting greenhouse gas emission reductions. The City may also provide information and assistance regarding federal, state and local rebate programs for efficiency retrofits and low-cost financing options to help reduce the business's time and cost of implementing the voluntary measures. The City may also provide contact information for the local utilities' account and program staff and utility-approved Chula Vista contractors that may provide services identified in the evaluation.

C. Enforcement. Businesses which do not respond to the appointment notification process and provide access for the on-site evaluation shall be sent a follow-up notice with a 30-day opportunity to cure. Unresponsive businesses will be sent a second 30-day reminder notice. Businesses which do not cooperate after the second reminder notice will be assessed a fine that shall be set in the Master Fee Schedule. The fine will be collectable on the following year's business license and incur a six percent interest rate per annum. Staff may administratively reduce or eliminate any portion of the fine for any business that completes the process. Failure to participate in the assessment process shall not result in the suspension of a business license or permit to occupy the business premises. Any fines collected through ordinance enforcement will be appropriated to a Business Conservation Fund which will be used to purchase devices to distribute to businesses to help them voluntarily reduce their energy and water costs.

D. Exemptions. Home offices, mobile businesses and other business entities that do not have a commercial utility gas or electric meter are exempt. Businesses occupying a facility which has had a completed evaluation within at least three years through the City's program or through a similar energy audit program (SDG&E or other City-recognized program) will be exempt, including facilities having multiple business licenses. The City will also provide an exemption to businesses that participate in a greenhouse gas emissions reporting program (Federal Environmental Protection Agency, the Climate Registry, or other City-recognized program) or possess a current City of Chula Vista CLEAN Business certification. Finally, the City shall grant any business with an exemption of at least three five years when occupying newly constructed or remodeled facilities that have an

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approved Title 24 Energy Efficiency Report with its building plans. These exemptions do not preclude any licensed business with a commercial electrical or gas meter from requesting a free resource and energy evaluation at the business's sole discretion.

DECISION-MAKER CONFLICT

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the 500-foot rule found in California Code of Regulations Title 2, section 18705.2 (a)(11), is not applicable to this decision for purposes of determining a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code .. 87100, et seq.).

LINK TO STRATEGIC GOALS

The City's Strategic Plan has five major goals: Operational Excellence, Economic Vitality, Healthy Community, Strong and Secure Neighborhoods and a Connected Community. The FREBE Program and the proposed modifications to the ordinance support the City's Strategic Plan goals of Healthy Community and Operational Excellence as staff seeks to reduce community energy use, thereby improving air quality and improving the businesses' customer service experience with the City. These modifications will help businesses take advantage of energy saving programs.

CURRENT YEAR FISCAL IMPACT

The approval of the ordinance modifications has no current year impact on the General Fund. The activities required under this ordinance are funded through the City's Local Government Partnership with San Diego Gas & Electric (SDG&E) and the California Public Utilities Commission (CPUC), through 2021.

ONGOING FISCAL IMPACT

There is no ongoing impact to the General Fund. SDG&E Local Government Partnership funding will continue to support the program through 2021.

Staff Contact: Lynn France, Environmental Services Manager