

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF CHULA VISTA
AMENDING CHAPTER 15.26 OF THE CHULA VISTA
MUNICIPAL CODE, ENERGY CODE, ADOPTING THE
CALIFORNIA ENERGY CODE, 2022 EDITION AND
LOCAL AMENDMENTS THERETO

WHEREAS, the California Building Standards Commission requires jurisdictions within the State to begin enforcing the 2022 Editions of the California building codes on January 1, 2023; and

WHEREAS, local jurisdictions are permitted to adopt local amendments to the State building codes before they take effect; and

WHEREAS, local amendments cannot be less restrictive than the State building codes and must be based on findings that the amendments are necessary because of local climatic, geological, or topographical conditions; and

WHEREAS, the proposed ordinance adopts the 2022 California Energy Code and proposes the re-adoption of Sections 15.26.020, Outdoor lighting zones, and 15.26.050, Mandatory benchmarking and conservation requirements for multifamily and commercial buildings, and proposes the deletion of Section 15.26.040, Mandatory energy efficiency requirements for additions to single-family homes and condos.

The City Council of the City of Chula Vista does ordain as follows:

Section I. Amended Chapter 15.26

That chapter 15.26 of the Chula Vista Municipal Code is hereby amended to read as follows:

**Chapter 15.26
ENERGY CODE**

Sections:

15.26.010 California Energy Code, ~~2019~~ 2022 Edition, adopted by reference.

15.26.020 Outdoor lighting zones.

15.26.030 Repealed.

~~15.26.040 Mandatory energy efficiency requirements for additions to single-family homes and condos. Repealed.~~

15.26.050 Mandatory benchmarking and conservation requirements for multifamily and commercial buildings.

15.26.010 California Energy Code, ~~2019~~ 2022 Edition, adopted by reference.

The City of Chula Vista adopts, by reference, that certain document known as the California Energy Code, ~~2019-2022~~ Edition, set forth in Title 24, Part 6, of the California Code of Regulations, as copyrighted by, and as may be amended from time to time by, the California Building Standards Commission. That California Energy Code is adopted as the energy code of the City of Chula Vista for the purpose of regulating building design and construction standards to increase efficiency in the use of energy for new residential and nonresidential buildings. Chapter 15.06 ~~CVMC of the Chula Vista Municipal Code~~ shall serve as the administrative, organizational, and enforcement rules and regulations for this chapter.

15.26.020 Outdoor lighting zones.

Pursuant to Section 10-114 (c) of the California Code of Regulations, Title 24, Part 1, the city has adopted an outdoor lighting zones map amending state default lighting zones as applied to certain areas of the City. The location of outdoor lighting zones in the City are per the adopted Outdoor Lighting Zones Map, dated September 2, 2005 and kept on file with the City's Development Services Department.

~~15.26.040 Mandatory energy efficiency requirements for additions to single-family homes and condos.~~

~~A. Purpose and Intent. It is the purpose and intent of this section to require installation of specific energy efficiency measures in less energy efficient homes, when such homes undertake additions or remodels, in order to reduce GHG emissions resulting from energy consumption.~~

~~B. Applicability. This section applies to dwelling units constructed before 2006, that are undergoing a permitted Addition or Remodel, either in Low Rise Residential Buildings (as defined in Title 24, Part 6, Section 100.1) with one to four dwelling units, or that are individually owned residential condominiums and townhouses. EXCEPTION: This section shall not be triggered by creation of a new Accessory dwelling unit (ADU) or Junior accessory dwelling unit (JADU) alone. This section does apply to Additions to, or Remodels of, existing ADUs or JADUs.~~

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

~~Addition. See definition in Title 24, Part 6, Section 100.1(b).~~

~~Compliance Report" means a Certificate of Compliance generated by approved Energy Code compliance software, including CBECC Res and EnergyPro.~~

~~"Condo" means an individually owned residential unit within a building containing five or more dwelling units.~~

~~"Home" means a residential building containing between one and four dwelling units.~~

~~“Remodel” means any of the following:~~

- ~~1. Any change or rearrangement, other than a repair, of the structural elements of an existing building including foundations, footing, sub-floors, lintels, beams, columns, girders, slabs, roof trusses, staircases, load bearing walls, door frames, window frames, or any other part of the building that resists force or movement.~~
- ~~2. Change or rearrangement of the plan configuration of walls and full height partitions of an existing building.~~

~~“Steep Slope” means a roof slope greater than two units vertical in 12 units horizontal (17 percent slope).~~

~~“Total Energy Use” means the energy consumption estimated by approved Energy Code compliance software, including CBECC-Res and EnergyPro, in terms of kTDV per square foot per year (kTDV/sf2—yr).~~

~~D. Requirements. The following requirements shall apply to the entire dwelling unit, not just the additional or altered portion. Where these requirements conflict with other energy code requirements, the stricter requirement shall prevail. Homes and Condos shall comply with either the Prescriptive Approach or the Performance Approach.~~

~~1. Prescriptive Approach.~~

~~a. The Minimum Number of Energy Upgrade Measures shown below in Table 15.26.040(D)(1)(a) must be completed in accordance with the building type, construction date and climate zone.~~

Table 15.26.040(D)(1)(a). Minimum Number of Energy Upgrade Measures

Year Built	Building Type	Climate Zone 7	Climate Zone 10
Before 1978	Homes and Condos	Choose 3 Energy Upgrade Measures	Choose 4 Energy Upgrade Measures
1978-1991	Condos	Choose 3 Energy Upgrade Measures	
	Homes	Choose 2 Energy Upgrade Measures	

Year Built	Building Type	Climate Zone 7	Climate Zone 10
1992-2005	Homes and Condos	Choose 2 Energy Upgrade Measures	

~~b. Additions or Remodels involving steep sloped roof replacement, recovering or recoating of either more than 50 percent or more than 2,000 square feet of roof area, or new steep sloped roof sections of any size, are also required to meet the Cool Roof requirements in Table 15.26.040(D)(1)(b) for the roofing material added to:~~

~~i. Homes constructed pre 1978 in climate zone 7 or pre 2006 in climate zone 10.~~

~~ii. Condos constructed pre 1992 in climate zone 7 or pre 2006 in climate zone 10.~~

~~c. Qualifying Energy Upgrade Measures that count toward satisfying the minimum indicated in Table 15.26.040(D)(1)(a) shall be chosen from the Prescriptive Energy Upgrade Measure List shown below in Table 15.26.040(D)(1)(c), and shall be completed in accordance with the specifications therein. Materials must meet the parameters included below in Table 15.26.040(D)(1)(c) as a minimum. More energy efficient materials may be substituted.~~

~~Table 15.26.040(D)(1)(c). Prescriptive Energy Upgrade Measure List (section references are to California Code of Regulations, Title 24, Part 6, Subchapter 8)~~

Package	Specification
R-38 Attic Insulation	Add attic insulation in buildings with vented attic spaces to meet R-38 per requirements of section 150.1(c)1Aii or iii.
Air Sealing	Apply air sealing practices throughout all accessible areas of the building. 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. Homes with one or more vented combustion appliances must have a BPI

Package	Specification
	Combustion Appliance Safety Inspection performed after air sealing.
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 all ductwork to meet the requirements of Section 150.2(b)1E as if the heating system were being replaced.
LED Lighting	Replace screw-in halogen, incandescent or CFL light bulbs with LED light bulbs in accordance with the requirements of Section 150.0(k)1.A, D, G, H and I.
Water Heating Package	<p>1. Water Heater Blanket: 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>2. Hot Water Pipe Insulation—Insulate all accessible hot water pipes with R-3 pipe insulation per requirements of section 150.0(j)2.A.</p> <p>3. Low Flow Fittings—Upgrade sink and shower fittings to meet current 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 per requirements of CALGreen Section 4.303.</p>
Windows	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,

Package	Specification
	which is assumed to have single pane, metal frame windows.
Water Heater Replacement	<p>High Efficiency Heat Pump Water Heater: 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>High Efficiency Tankless Water Heater: Replace natural gas storage water heater, or tankless water heater having an Energy Factor of .81 or less, with tankless water heater with a minimum Energy Factor of 0.96.</p>
Air Conditioner Replacement	<p>High Efficiency Air Conditioner: 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>High Efficiency Heat Pump: Replace an existing air conditioner having a SEER rating of 13 or less with a Heat Pump of at least 18 SEER.</p>

~~d. Measure Already Completed.~~ Where measures substantially similar to those specified in Table 15.26.040(D)(1)(c) are already in place, they shall count toward satisfaction of the Minimum Number of Energy Upgrade Measures in Table 15.26.040(D)(1)(a).

~~e. Project Value Cutoff.~~ If the cost of completing the Minimum Number of Energy Upgrade Measures in Table 15.26.040(D)(1)(a) is projected to exceed 20 percent of the projected cost of the Addition or Remodel absent those measures, permit applicants can propose a more limited set from among Prescriptive Energy Upgrade Measure List in Table 15.26.040(D)(1)(c) which does not exceed 20 percent. The limited set must include as many of the required measures as possible without exceeding the 20 percent cutoff.

~~2. Performance Approach.~~

a. ~~Complete any energy saving measures concurrent with Addition or Remodel that are projected to result in equivalent or lower energy usage than the Assumed Energy Upgrade Measures indicated in Table 15.26.040(D)(2)(a) below.~~

Table 15.26.040(D)(2)(a). ~~Assumed Energy Upgrade Measures for Performance Equivalency~~

Year Built	Building Type	Climate Zone 7	Climate Zone 10
Before 1978	Homes and Condos	R38 Attic Insulation; Duct Sealing	Duct Sealing; R38 Attic; Air Sealing
1978-1991	Condos	Duct Sealing	
	Homes	N/A	
1992-2005	Homes and Condos	N/A	

b. ~~Shall be demonstrated by the following method:~~

i. ~~Install the LED Lighting and Water Heater Blanket measures as specified in Table 15.26.040(D)(1)(c).~~

ii. ~~Submit two compliance reports. One compliance report shall be generated from a model of the proposed energy performance measures, and the existing home plus the proposed addition(s) and any other alterations. A second compliance report shall be generated by modeling the existing home with the Energy Upgrade Measures shown in Table 15.26.040(D)(2)(a) including proposed addition(s) and other alterations, but not including the proposed energy saving measures. The Total Energy Use for the first compliance report must be equal or less than that of the second compliance report.~~

~~E. Exemptions. The requirements of this section may be waived, in part or in whole, if any of the following conditions are met, to the satisfaction of the City Manager or designee:~~

~~1. Technical Infeasibility. Prescribed measure would be technically infeasible or not be cost effective due to unique characteristics of home or other special circumstances.~~

~~a. Evidence requirement to show lack of cost effectiveness: Letter from certified energy professional attesting to the lack of cost effectiveness with explanation of methodology and calculation.~~

~~b. Evidence to show technical infeasibility: Letter from licensed building professional documenting infeasibility for one of the following reasons: inaccessibility, violation of other codes, low likelihood of success, measure would affect proper functioning of other building elements, result in safety risks, cause harm to building occupants.~~

~~2. *High Performing Home.* Home has earned a Home Energy Score of eight or above within the previous three years.~~

~~3. *Fully Solar Powered.* Home is powered by a solar PV system offsetting at least 95 percent of the annual electricity demand and gas equivalent energy consumption.~~

~~4. *Exempt Projects.* Additions or Remodels that would not otherwise be subject to this section but for work related to Solar PV, Solar water heating, EV charging, electrical upgrades for solar PV or EV charging, or energy storage are exempt.~~

~~5. *Homeowner's Association.* A measure is beyond the authority of the homeowner as defined in applicable Homeowner's Association (HOA) covenants, conditions or restrictions.~~

~~6. *Medical Necessity.* An Addition or Remodel consists solely of medically necessary improvements.~~

~~7. *Low Income.* If an applicant can demonstrate they qualify for low income assistance as defined in Section 1-100 of the City's Master Fee Schedule.~~

~~F. *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 15.26.040(D)(1)(c) as new energy efficient technologies or materials are developed. (Ord. 3495 § 1, 2020).~~

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 (1) no residential utility accounts, or (2) 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 CVMC 15.26.050(D)	Applies	Applies
Direct Disclosure and Public Disclosure Requirements CVMC 15.26.050(E)	Applies	Applies
Conservation Requirements CVMC 15.26.050(F)(1) through (4), (7), (8)	Applies	Applies to Properties with Significant Common Load
Minimum Improvement Requirements CVMC 15.26.050(F)(5)	Applies	Applies to Properties with Significant Common Load
Multifamily Prescriptive Upgrades CVMC 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 CVMC 15.26.050(G), (H) and (I)	Applies	Applies

Exemptions. Properties owned by any of the following are exempt from this section:

1. The county of San Diego;
2. The state of California;

3. The United States of America;
4. The Metropolitan Transit Service; or
5. The Chula Vista ~~and or~~ 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:

- a. 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;
- b. Systems or subsystems owned by a residential unit Owner that exclusively serve the residential unit of that Owner;
- c. 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*” means 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.

“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 75 percent 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 its performance, located at <https://www.energystar.gov/>.

“ENERGY STAR Score” means a number ranging from one 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.

“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 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 year (measured in kBtu or GJ) by the total Gross Floor Area of the building.

“Financial Distress” means a Property that:

- a. Had arrears of property taxes or water or wastewater charges that resulted in the Property's inclusion, within the prior two years, on the City's annual tax lien sale list; or
- b. Has a court appointed receiver in control of the asset due to financial distress; or
- c. Is owned by a financial institution through default by the borrower; or
- d. Has been acquired by a deed in lieu of foreclosure; or
- e. 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" means a Property that submitted a Benchmarking Report for its most recent benchmarking compliance deadline and either (1) achieved a Verified ENERGY STAR Score of 80 or greater or (2) achieved ENERGY STAR Certification, or (3) achieved LEED Existing Building Certification for three of five 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 building's 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 unit.

"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 or more Multifamily Dwelling Units.

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

“*Owner*” means 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 applicable, 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:

- a. A single building;
- b. A campus of two or more buildings which are owned and operated by the same party, have a single shared primary function, and consisting of:
 - i. 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
 - ii. 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 nonrentable portion of the Gross Floor Area is 10,000 square feet or more.

“*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 generated on site and sold to the utility is excluded from site energy use).

“*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®.

“*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.

“*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®.

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

D. Benchmarking Requirements. Owner shall Benchmark in accordance with the following on or before the compliance deadlines specified in subsection (G) of this section:

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 subsection (F)(1) of this section 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 subsection (F)(1) of this section. 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 subsections (E)(1), (2), and (3) of this section.

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 five percent 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 subsection (F)(4) of this section, 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 this 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 subsection (D)(4) of this section.

b. *Exemption.* Properties with more than half of Gross Floor Area used for Industrial Occupancy are exempt from the Public Disclosure requirements (subsection (E)(3) of this section).

F. *Conservation Requirements.* Conservation Requirements apply according to the compliance deadlines specified in subsection (G) of this section. Properties meeting the

requirements for a High Performing Building (subsection (C) of this section) are exempt from all requirements in this subsection (F).

1. Multifamily properties are subject to the Multifamily Prescriptive Measure requirements (subsection (F)(6) of this section) by their first five-year Conservation Requirement deadline. In addition, multifamily properties with Significant Common Load must meet either the Performance Targets (subsection (F)(3) of this section), or the Audit Requirement (subsection (F)(4) of this section) and Minimum Improvement requirement (subsection (F)(5) of this section).

2. Nonresidential must meet either the Performance Targets (subsection (F)(3) of this section), or the Audit Requirement (subsection (F)(4) of this section) and Minimum Improvement requirement (subsection (F)(5) of this section).

3. *Performance Targets*. Every five 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
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 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 also obtain a quote for a more extensive audit and discuss the additional value with the audit provider. Owners 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.

(A) *Applicability.* Retro-Commissioning requirements shall apply to properties that meet all of the following:

(1) At least 50,000 square feet of conditioned space;

(2) Existing Mechanical Equipment;

(3) Digital controls in place that are repairable or in good working order in the opinion of the auditor.

(B) *Exemption.* Properties that have experienced major changes in operations during prior six months or have planned to make major changes in the following year.

(C) The Retro-Commissioning of the Base Building Systems shall include, at minimum, the following:

- (1) Heating, ventilation, air conditioning (HVAC) systems and controls; and
- (2) Indoor lighting systems and controls; and
- (3) Water heating systems; and
- (4) 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)(a)(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)(a)(v) or other qualifying certifications as specified by the Conservation Section.

v. *Qualifying Professional Certifications.*

15.26.050(F)(4)(a)(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 Managers2. A Professional Engineer (PE) registered in the State of California

Professional Type	Qualifying Certification
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 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) 5. For Audits of multifamily residential properties only, a Multifamily Building Analyst (MFBA), issued by the Building Performance Institute (BPI)
Retro-Commissioning Professional (any listed)	<ol style="list-style-type: none"> 1. Certified Commissioning Professional (CCP), issued by the Building Commissioning Association (BCA) 2. Certified Commissioning Authority (CxA) or Certified Commissioning Technician (CXT), issued by the AABC Commissioning Group (ACG) 3. Certified Building Commissioning Professional (CBCP) or Existing Building Commissioning Professional (EBCP), issued by the Association of Energy Engineers (AEE) 4. Certified Professional certified by the National Environmental Balancing Bureau (NEBB) 5. Commissioning Process Management Professional (CPMP), issued by American Society of Heating,

Professional Type	Qualifying Certification
	Refrigerating, and Air-Conditioning Engineers (ASHRAE) 6. Accredited Commissioning Process Authority Professional (ACPAP) approved by the University of Wisconsin

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:

- (A) The date(s) that the Energy Audit and Retro-Commissioning (if applicable) were performed; and
- (B) Identifying information on the auditor provider (and Retro-Commissioning provider if applicable); and
- (C) Information on the base building systems and equipment; and
- (D) A list of retrofit measures available to the Owner that can reduce energy use, and/or cost of operating the Property including:
 - (1) Costs of each measure; and
 - (2) An estimate of the energy and operating cost savings associated with each measure; and
 - (3) Simple payback of each measure; and
 - (4) Identification of at least two contractors able to perform measure.
- (E) Identification or recommendation of measures applicable to tenant-controlled spaces, including estimates for energy and operating savings for all affected tenants; and
- (F) Identification or recommendation of measures needed to meet applicable Performance Targets; and

(G) Identification or recommendation of measures needed to meet Minimum Improvement, if applicable; and

(H) Identification of all rebate, incentive and financing programs available to property and/or in association with specific measures; and

(I) If applicable, a list of all the Retro-Commissioning process activities undertaken and Retro-Commissioning measures completed; and

(J) A list of all retrofit measures taken (if applicable); and

(K) Functional performance testing reports (if applicable); and

(L) Operational training conducted (if applicable); and

(M) Attestation that an ASHRAE level 2 Energy Audit and (if applicable) ASHRAE 0.2 Retro-Commissioning process were conducted.

5. *Minimum Improvement.* Every 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 WN (kBTU/sf/year)	Year Site EUI- Mandatory Improvement	Minimum
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 subsection (F)(4)(a)(vi)(G) of this section) 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 subsection (F)(4)(a)(vi)(G) of this section 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 Measures	Choose five Measures

Year Built	Climate Zone 7	Climate Zone 10
1978 – 1991	Choose three Measures	
1992 – 2005	Choose two Measures	

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.

Measure Name	Description
Water Heating Package (if water heater serves individual unit)	<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-5 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>
Windows	<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>
Water Heater Replacement (if water heater serves individual unit)	<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>
Air Conditioner Replacement	<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 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 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 are detailed in Table 15.26.050(G) below. The Conservation Section may grant an extension of time of up to 60 days to file any submittal required by this section upon request in writing. The Conservation Section may grant an additional extension up to 180 days upon an application demonstrating evidence of substantial hardship.

Table 15.26.050(G). Compliance Deadlines

Section	Compliance Deadlines	
	50,000+ square feet GFA	20,000 – 49,999 square feet GFA
Benchmarking Requirements CVMC 15.26.050(D)	May 20th of each year beginning 2022	March 20th of each year beginning 2022
Direct Disclosure and Public Disclosure Requirements CVMC 15.26.050(E)(1), (2)	Beginning September 1, 2022	Beginning September 1, 2022

Section	Compliance Deadlines	
	50,000+ square feet GFA	20,000 – 49,999 square feet GFA
Conservation Requirements CVMC 15.26.050(F)(1) through (4), (7), (8)	Every five years beginning 2023 or later according to a schedule to be determined by the Conservation Section	Every five years beginning 2026 or later according to a schedule to be determined by the Conservation Section
Minimum Improvement Requirements CVMC 15.26.050(F)(5)	Every 10 years beginning in the year 2028 or later according to a schedule to be determined by the Conservation Section	Every 10 years beginning in the year 2031 or later according to a schedule to be determined by the Conservation Section
Multifamily Prescriptive Upgrades CVMC 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 and any such person 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 sixtieth 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 noncompliance.

3. Monetary penalties for noncompliance 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. Findings

The City Council of the City of Chula Vista specifically and expressly finds and declares that section 15.26.050 is 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.

Section III. 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 IV. 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 V. Effective Date

This ordinance will take effect and be in force thirty days after final passage but not before January 1, 2023.

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

Laura C. Black, AICP
Director of Development Services

Glen R. Googins
City Attorney