

ORDINANCE NO. XXXX

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING
CHAPTERS 15.26 and 15.62 OF THE CHULA VISTA
MUNICIPAL CODE TO MODIFY 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, the City's Climate Action Plan includes a greenhouse gas emission reduction strategy to encourage building owners to adopt electric appliances to meet increased energy efficiency requirements as electric appliances have a greater ability to increase the energy efficiency rating of a building; and

WHEREAS, in March 2022 the City adopted a Climate Emergency Resolution affirming its commitment to GHG reduction targets of 57% below 2018 levels by 2030 that best reflect the most recent climate science findings and Chula Vista's "Fair Share" based on the UN human development index; and

WHEREAS, through its 2020 Greenhouse Gas (GHG) Inventory, approved in June 2022, the City's 2020 emissions were 17% below 2005 levels; and

WHEREAS, the Environmental Element of the General Plan, adopted December 13, 2005, specifies policies to improve the efficiency of building operations, including providing pertinent information about the benefits of energy conservation and available energy conservation incentive programs to all segments of the community and encouraging the construction and operation of green buildings; 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 sq ft 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 implements procedures for compliance with Public Resources Code section 25402.10; and

WHEREAS California Code of Regulations Title 20 Division 2 Chapter 4 Article 9 Section 1684(b) authorizes local jurisdictions to request the executive director of the California Energy Commission to approve a request to approve a local benchmarking program that meets the State program requirements; and

WHEREAS, California Code of Regulations Title 20 Division 2 Chapter 4 Article 9 Section 1684 established an exemption for properties that benchmark under local benchmarking programs meeting the requirements of Section 1683(c); and

WHEREAS, the benchmarking requirements meet the requirements of California Code of Regulations Title 20 Division 2 Chapter 4 Article 9 Section 1683(c); and

WHEREAS, on March 2, 2021, Council approved 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, the City began implementing the benchmarking requirements in 2022; and

WHEREAS, staff is presenting to Council amendments to the adopted policy to move it from the CVMC Chapter 15.26, Buildings and Construction, Energy Code to CVMC Chapter 15.62, Buildings and Construction, Energy Benchmarking and Conservation, and to amend the ordinance to improve alignment with State requirements, improve the effectiveness of the policy and simplify the process to make it easier for building owners to file and comply; 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

WHEREAS, the proposed amendments are necessary to implement policies in the General Plan, including the following: Environment Element, Objective E-7.1, to promote development of regulations and building design standards that maximize energy efficiency through appropriate site and building design and through the use of energy-efficient materials, equipment, and appliances; and Environment Element, Objective E-7.2, to encourage and support the local research, development, generation, and use of non-fossil, fuel-based renewable sources of energy, including wind and solar resources, that meet local energy needs in an environmentally sensitive manner and reduce dependence on imported

energy; and

NOW, THEREFORE, BE IT ORDAINED that the City Council of the City of Chula Vista does find that, pursuant to the recitals above, the proposed ordinance is substantially similar to the building performance requirements adopted on March 2, 2021 and currently in effect, and is necessary to align with the General Plan approved on July 13, 2021, and is necessary to implement actions in the adopted Climate Action Plan, which permit mixed-fuel residential construction consistent with federal law while also encouraging all-electric construction.

BE IT FURTHER ORDAINED that by the City Council of the City of Chula Vista does ordain as follows:

Section I.

Chapters 15.26 of the Chula Vista Municipal Code is hereby amended by moving Section 15.26.050, Mandatory Benchmarking and Conservation Requirements for Multifamily and Commercial Buildings, to a new Chapter, 15.62, Energy Benchmarking and Conservation, and amending it to read as follows:

15.62.010 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.

EXEMPTIONS: Properties owned by any of the following are exempt from Section 15.62.010:

- (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, as applicable, and Retro-Commissioning, located at <https://buildingenergyscore.energy.gov/> or other template approved by the Conservation Section.

"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 either: a) for a Covered Property constructed and in operation for a full year prior to 2025, any year between 2022 and 2025; or, b) for all other Covered Properties, the first full year of building operation.

"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.

"California Building Energy Use Data Access, Benchmarking, and Public Disclosure Requirements" means the regulations specified in CCR Title 20, Division 2, Chapter 4, Article 9, as amended from time to time.

"Centralized 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.

"Conditioned Floor Area" means the floor area (in square feet) of enclosed conditioned space on all floors of a building, as measured at the floor level of the exterior surfaces of exterior walls enclosing the conditioned space.

"Conservation Section" means the City of Chula Vista's Sustainability Division Conservation Section.

"Covered Property" means a Property with a Gross Floor Area of 20,000 square feet or more within the City of Chula Vista 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.

"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 Professional” means a third-party individual who has one of the following licenses, credentials, or certifications, and is in good standing with the authorizing organization: (1) Professional Engineer (PE) issued within the United States, (2) Registered Architect (RA) issued within the United States, (3) Certified Energy Manager (CEM from AEE), (4) Building Energy Assessment Professional (BEAP from ASHRAE), (5) Energy Management Professional (EMP from EMA), or any other data verifier license or training program credentials recognized by the Conservation Section.

"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 or an equivalent score using a rating system approved by the Conservation Section.

“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/>, or any alternative system or tool approved by the Conservation Section or authorized under the California Building Energy Use Data Access, Benchmarking, and Public Disclosure Requirements.

"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, hallways, 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 (i) achieved a Verified ENERGY STAR Score of 80 or greater or (ii) has been ENERGY STAR Certified, or (iii) achieved LEED® Existing Building Certification for three (3) of five (5) preceding years.

“LEED Existing Building Certification” means a Property that has been certified under the US Green Building Council LEED V4 or greater Building Operations and Maintenance (O+M) program.

“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.

“Multifamily Property” means a Property that reports as a lodging/residential property type in ENERGY STAR Portfolio Manager, other than a hotel subtype.

“Nonresidential Property” means a Property other than a Multifamily Property.

“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 the authorized representative thereof.

“Property” means any structure used or intended to support or shelter any use or occupancy, other than a condominium project as described in section 4125 or 6542 of the California Civil Code, that received energy from a utility during any period. Two or more Properties on the same parcel, campus, or site that are served by one common energy meter without submetering, such that their energy use cannot be tracked individually, shall be considered one Property.

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

“Site Energy Use” means the total amount of all the energy, measured in kBtu per year, 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” or “Site Energy Use Intensity” means the Site Energy Use divided by the

Property's Gross Floor Area as calculated by ENERGY STAR Portfolio Manager.

"Site EUI-WN" or "Site Weather-normalized Site Energy Use Intensity" means the weather-normalized Site EUI.

"Source Energy Use" means the total amount of energy from raw fuel, measured in kBtu per year, 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" or "Source Energy Use Intensity" means the Source Energy Use divided by the Property's Gross Floor Area as calculated by ENERGY STAR Portfolio Manager.

"Source EUI-WN" or "Weather-normalized Source Energy Use Intensity" means the weather-normalized Source EUI.

"Verified Benchmarking Report" means an Energy Report based on data that has been verified by an Energy Professional.

"Verified ENERGY STAR Score" or "Verified ENERGY STAR Report" means an ENERGY STAR Score or ENERGY STAR Report based on data that has been verified by an Energy Professional.

"Year Built" means the calendar year that the permit application for the original building construction was submitted.

D. Benchmarking Requirements. Owner shall Benchmark in accordance with the following on or before the compliance deadlines specified in Section 15.62.010(G):

- (1) Establish an ENERGY STAR Portfolio Manager account (if Owner has not already done so), add Covered Properties, complete all required fields (if Owner has not already done so), and maintain current all required fields.
- (2) Annually collect data related to the property's total energy usage for the entire prior calendar year in accordance to the latest guidance under the California Building Energy Use Data Access, Benchmarking, and Public Disclosure Requirements, including, but not limited to, those related to obtaining customer consent.
- (3) Annually submit a Benchmarking Report to the Conservation Section. The Benchmarking Report shall be submitted in a manner prescribed by the Conservation Section.
- (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 floor areas (building and parking), property name (if any), property type, year(s) built, open "comments" filed for additional information about the property, ENERGY STAR Portfolio Manager property ID, percentage of space occupied (occupancy), number of

- occupants, number of buildings (if served by one common energy meter without submetering), 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 Energy Use Intensity and Weather-normalized Source Energy Use Intensity for the property; and
 - iii. The Site Energy Use Intensity and Source Energy Use Intensity 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
 - vi. Monthly and/or annual peak electricity demand; and
 - vii. Total greenhouse gas emissions; and
 - vii. Monthly and annual Site Energy Use by energy type and share of energy use supplied by on and off-site renewables.
- (5) Starting in 2026, 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) Data Verification. Property Owners shall self-certify and provide third-party data verification for the Baseline Year and during designated compliance years to verify and ensure that the Benchmarking Report components are complete and accurate. Self-certifications and third-party data verifications shall be submitted through ENERGY STAR Portfolio Manager tool.
- a. Building Owners shall self-certify their reporting data every year.
 - b. Baseline Year data and data used to demonstrate compliance with the Conservation Requirements shall be verified by qualified third-party qualified Energy Professional.
- (8) Exemptions and Extensions for 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 more than half of the calendar year for which reporting is required;
- ii. The building is scheduled to be demolished one year or less from the reporting date;
- iii. Mobile home parks with less than 50,000 gross square feet of building space and less than 17 separate residential accounts of each energy type.

E. Direct Disclosure and Public Disclosure Requirements. Covered Properties shall comply with Sections 15.62.010(E)(1), (2), (3) and (4) 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 Sections 15.62.010(F)(3) and 15.62.010(F)(4), as applicable, to all existing residential and non-residential tenants and current owners with an interest of 5% or more within 90 days of the Conservation Requirements compliance deadline and to prospective buyers prior to close of sale and prospective tenants prior to lease signing. Owners shall confer with any non-residential 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 Requirements compliance deadline.
- (3) Disclosure of Conservation Requirements to Prospective Buyers. In addition to any disclosure requirement required by law, any Agreement of Sale for real property in the City shall include the following disclosure:

“Buyer is aware that the City of Chula Vista has adopted requirements for building energy benchmarking and performance of different types of buildings. The requirements can be found in Chula Vista Municipal Code Chapter 15.62. For more information on which types of buildings are required to comply with energy benchmarking and performance standards, Buyer is advised to contact the City of Chula Vista Conservation Section.”

For purposes of this section, agreement of sale shall mean any agreement or written instrument which provides that title to any property shall thereafter be transferred from one owner to another owner.
- (4) 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:
 - 1. Address and property use type(s); and
 - 2. Annual summary statistics derived from the submitted benchmarking report, including all information required under Section 15.62.010(D)(4) and the California Building Energy Use Data Access, Benchmarking, and Public Disclosure Requirements.
- b. Exemption. For a Covered Property with fewer than three active utility accounts of any energy type serving the property, one of which belongs to the Owner, where the other utility customer, if applicable, has consented to the provision of data to facilitate public disclosure, energy data, including the ENERGY STAR Score will not be made public if the Conservation Section grants the Owner's request for determination that disclosure of the Property Owner's energy use data would result in the release of proprietary information that can be characterized as a trade secret.
- c. The Conservation Section shall transmit to the California Energy Commission all information that is publicly disclosed for a calendar year by August 1 of the following year.

F. Conservation Requirements. Covered Properties must meet *either* the Performance Target Compliance Requirements (Section 15.62.010(F)(1)), *or* the Provisional Compliance Requirements (Section 15.62.010(F)(2)). Conservation Requirements apply according to the compliance deadlines specified in Section 15.62.010(G). Properties meeting the requirements for a High Performance Building (Section 15.62.010(C)) are exempt from all requirements in Section 15.62.010(F) for 10 years.

- (1) Performance Target Compliance Requirements. Every five (5) years demonstrate, using Verified ENERGY STAR Reports, that:
 - a. Property has decreased its Site EUI-WN from the Baseline Year by at least the Improvement Target corresponding to the Baseline Year ENERGY STAR Score in Table 15.62.010(F)(1);
 - b. Or, if Property was not eligible for an ENERGY STAR Score in the Baseline Year, Property has reduced its Site EUI-WN from the Baseline Year by at least the Improvement Target corresponding to the Baseline Year Site EUI-WN in Table 15.62.010(F)(1).

Table 15.62.010(F)(1)

Tier	Baseline Year ENERGY STAR Score	Baseline Year Site EUI-WN (kBtu / sf / year)	Improvement Target Site EUI-WN Reduction (kBtu / sf / year)
1	0-45	80+	30%
2	46-65	51-79	20%
3	66-79	19-50	10%
4	80+	0-18	None

Example: A Property in Tier 2 has a Verified Site EUI-WN of 60 and a corresponding Improvement Target of a 20% reduction in Site EUI-WN. Thus, it must reduce its Site EUI-WN by 12 kBtu/sf/yr (20% of 60), to achieve a Site-EUI-WN of 48.

- c. Table 15.62.010(F)(1) shall be updated periodically by the Conservation Section subject to City Council approval.

(2) Provisional Compliance Requirements. Covered Properties must meet the requirements of Sections 15.62.010(F)(2)(a) and 15.62.010(F)(2)(b) below.

- a. Interim Performance Targets. File Verified ENERGY STAR Reports demonstrating that the property has decreased its Site EUI-WN by at least 50% of the Improvement Target in Table 15.62.010(F)(1) from Baseline Year by the interim target filing deadline and by at least 100% by the final target filing. Interim and final target compliance filing deadlines are specified in Table 15.62.010(G).

Exception to Interim Performance Targets: Properties with a Baseline Year Verified ENERGY STAR Score of 66 or higher, or properties ineligible for an ENERGY STAR Score with a Baseline Year Site EUI-WN of 50 or less.

- b. Retro-Commissioning, Audits and Conservation Measures. Multifamily Properties shall comply with *either* Section 15.62.010(F)(2)(b)(i) or (ii) below. All other Properties shall comply with Section 15.62.010(F)(2)(b)(i) below.

- i. Retro-Commissioning. Retro-Commissioning shall be performed, and a Retro-Commissioning Report shall be submitted no later than the compliance filing deadline specified in Table 15.62.010(G), and in accordance with the specifications herein.

Exception to 15.62.010(F)(2)(b)(i): In lieu of Retro-Commissioning, an Energy Audit shall be performed, and an Audit Report shall be submitted no later than the compliance filing deadline specified in Table 15.62.010(G), and in accordance with the specifications herein if the property meets, and the Conservation Section concurs that the property meets, any of the following criteria:

1. Has less than 50,000 square feet of Conditioned Floor Area;
 2. Has no existing Centralized Mechanical Equipment;
 3. Does not have digital controls in place that are repairable or in good working order in the opinion of an Energy Professional;
 4. Has experienced major changes in operations during prior six months or plans to make major changes in the following year.
- ii. Energy Conservation Measures. File documentation no later than the compliance filing deadline specified in Table 15.62.010(G) demonstrating that the required conservation measures specified in Section 15.62.010(F)(7) have been installed in all dwelling units.

Exception to Section 15.62.010(F)(2)(b): Multifamily Properties of Year Built after 2005.

(3) Audit Specifications. An ASHRAE Level 2 or greater Energy Audit shall be conducted in conformance with the current ASHRAE Standard 211 “Commercial Building Energy Audits”, as applicable, at the time the Energy Audit is initiated. Energy 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 possesses one or more of the certifications specified in Table 15.62.010(F)(5) or other qualifying certifications as specified by the Conservation Section.

(4) Retro-Commissioning Specifications. Retro-Commissioning 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.

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 possesses one or more of the certifications specified in Table 15.62.010(F)(5) or other qualifying certifications as specified by the Conservation Section.

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.

(5) Qualifying Professional Certifications

Table 15.62.010(F)(5) Qualifying Professional Certifications

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. 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) 6. A Professional Engineer (PE) registered in the State of California.
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. Retro-commissioning Certified Professional (Rx CP) certified by the National Environmental Balancing Bureau (NEBB) 5. Building Commissioning Professional (BCxP), issued by American Society of Heating, Refrigerating, and Air- Conditioning Engineers (ASHRAE) 6. Accredited Commissioning Process Authority Professional (CxAP) approved by the University of Wisconsin 7. Energy Management Professional (EMP), issued by Energy Management Association 8. A Professional Engineer (PE) registered in the State of California

- (6) Energy Audit and Retro-Commissioning Report Specifications. A report (or reports) of the Energy Audit or Retro-Commissioning (as applicable), completed, and signed by a qualified Energy Audit professional or 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 (as applicable) were performed; and
 - b. Identifying information on the auditor provider or Retro-Commissioning provider; 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:
 - i. costs of each measure; and
 - ii. an estimate of the energy and operating cost savings associated with each measure; and
 - iii. simple payback of each 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 Target or Interim Performance Target; and
 - g. Identification of all rebate, incentive, and financing programs available to property and/or in association with specific measures; and
 - h. If applicable, a list of all the Retro-Commissioning process activities undertaken and Retro-Commissioning measures completed; and
 - i. A list of all retrofit measures taken (if applicable); and
 - j. Functional performance testing reports (if applicable); and
 - k. Operational training conducted (if applicable); and
 - l. Attestation that an ASHRAE Level 2 Energy Audit or ASHRAE 0.2 Retro-Commissioning process (as applicable) were conducted.
- c. Table 15.62.010(F)(5) shall be updated periodically by the Conservation Section subject to City Council approval.

(7) Multifamily Prescriptive Measures. To satisfy the Energy Conservation Requirements in Section 15.62.010(F)(2)(b)(ii), Multifamily Properties of a Year Built prior to 2006 must perform the minimum number of measures required in Table 15.25.050(F)(7)(a) within all dwelling units. Owners may choose any applicable measures from Table 15.25.050(F)(7)(b). Measures already in place shall count towards satisfying the minimum number of measures. Where a measure is not applicable it shall count toward satisfying the minimum number of measures.

Table 15.62.010(F)(7)(a)

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

Table 15.62.010(F)(7)(b)

Measure Name	Description
R-38 Attic Insulation	Install attic insulation to achieve a weighted assembly U-factor of 0.025 or less, or insulation installed at the ceiling level with a thermal resistance of R-38 or greater for the insulation alone. Recessed downlight luminaires in the ceiling shall be covered with insulation to the same depth as the rest of the ceiling. Luminaires not rated for insulation contact must be replaced or fitted with a fire-proof cover that allows for insulation to be installed directly over the cover.
Air Sealing	Seal all accessible cracks, holes, and gaps in the building envelope at walls, floors, and ceilings. Pay special attention to penetrations including plumbing, electrical, and mechanical vents, recessed can light luminaires, and windows. Weather-strip doors if not already present. Compliance shall be demonstrated with blower door testing conducted by a certified ECC Rater no more than three years prior to the permit application date that either: a) shows at least a 30 percent reduction from pre-retrofit conditions; or b) shows that the number of air changes per hour at 50 Pascals pressure difference (ACH50) does not exceed seven. If combustion appliances are located within the pressure boundary of the building, conduct a combustion safety test by a certified ECC Rater

	or a professional certified by the Building Performance Institute, in accordance with the BPI Technical Standards for the Building Analyst Professional.
Cool Roof	For steep-sloped roofs, install a roofing product on at least 50% of the roof 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. For low-sloped roofs install a roofing product on at least 50% of the roof rated by the Cool Roof Rating Council (CRRC) with a minimum aged solar reflectance of 0.63 and a minimum thermal emittance of 0.75, or a minimum SRI of 75.
Duct Sealing	Air seal any accessible ductwork to meet the requirements of the current California Energy Code (Title 24, Part 6) Section 180.2(b)2Aiii, which otherwise applies to altered space-conditioning systems.
Lighting	Replace all screw-based lighting that has an efficacy of less than 45 lumens per watt with lighting that has an efficacy of 45 lumens per watt or greater.
Water Heating Package (if water heater serves individual unit)	Insulate all accessible hot water pipes with pipe insulation to achieve a minimum thermal resistance of R-3. This includes insulating the supply pipe leaving the water heater, piping to faucets underneath sinks, and accessible pipes in attic spaces or crawlspaces. Upgrade fittings in sinks and showers to meet current California Green Building Standards Code (Title 24, Part 11) Section 4.303 water efficiency requirements. Exception: Upgraded fixtures are not required if existing fixtures have rated or measured flow rates of no more than ten percent greater than current California Green Building Standards Code (Title 24, Part 11) Section 4.303 water efficiency requirements.
Windows	Windows: Replace at least 50% of existing windows with high performance windows that comply with the specifications in current California Energy Code (Title 24, Part 6) Table 180.2-B.
Water Heater Replacement (if water heater serves individual unit)	Heat Pump Water Heater (HPWH): Replace existing water heater with a heat pump water heater that meets the requirements of the current California Energy Code (Title 24, Part 6) Sections 110.3 and 180.2(b)3. -or- High Efficiency Tankless Water Heater: Replace existing water heater with a tankless water heater with a minimum Uniform Energy Factor (UEF) of 0.95. -or- For two measure credits: Replace existing water heater with a heat pump water heater with a Northwest Energy Efficiency Alliance

	(NEEA) Tier 3 or higher rating that also meets the requirements of the current California Energy Code (Title 24, Part 6) Sections 110.3 and 180.2(b)3.
Air Conditioner Replacement	<p>Heat Pump Space Conditioning System: Replace all existing gas and electric resistance primary space heating systems with a heat pump system that meets the requirements of the current California Energy Code (Title 24, Part 6) Sections 110.3, 180.2(b)2.</p> <p style="text-align: center;">-or-</p> <p>High Efficiency Air Conditioner Replace an existing air conditioner having a SEER rating of 13 or less with an air conditioner having a SEER2 rating of 17.0 or greater, or an EER2 of 12.0 or greater.</p> <p style="text-align: center;">-or-</p> <p>For two measure credits: High Efficiency Heat Pump Space Conditioning System: Replace all existing gas and electric resistance primary space heating systems with an electric-only heat pump system that meets the requirements of the current California Energy Code (Title 24, Part 6) Sections 110.3 and 180.2(b)2 and one of the following:</p> <ul style="list-style-type: none"> • A ducted heat pump system with a SEER2 rating of 16.5 or greater, an EER2 rating of 12.48 or greater and an HSPF2 rating of 9.5 or greater; or a ductless mini-split heat pump system with a SEER2 rating of 16.0 or greater, an EER2 rating of 12.0 or greater and an HSPF2 rating of 9.0 or greater.

- (8) 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 a period of no less than five (5) years.
 - b. Retro-Commissioning costs shall be amortized over a period of no less than ten (10) years.
 - c. Costs of measure implementation shall be amortized over a period of no less than the expected useful life of the measure.
- (9) Extensions, Exceptions, and Adjustments from Conservation Requirements. The Conservation Section may, at its sole discretion, grant an extension, adjustment, or exemption to one or more of the Conservation Requirements. 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. The building is scheduled to be demolished one year or less from the reporting date;
- d. The Property has not previously been subject to the Benchmarking Requirement;
- e. The Property includes loads that are not accurately represented in the ENERGY STAR Score or Site EUI-WN, such as energy storage;
- f. The Owner has made a good faith effort to comply;
- g. The Owner is unable to achieve compliance due to technical infeasibility.

G. Compliance Schedule. Compliance filing deadlines for the requirements of this section detailed in Table 15.62.010(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 15.62.010(G) Compliance Deadlines

Requirement	Section	Compliance Filing Deadline
Benchmarking	15.62.010(D)	May 20 of each year beginning in 2022
Direct Disclosure and Public Disclosure	15.62.010(E)(1-2)	September 1 of each year beginning in 2022
Baseline Year Benchmarking Data Verification	15.62.010(D)(7)	2027, or the year immediately after the first full year of operation, whichever is later
Performance Target Compliance	15.62.010(F)(1)	Every five (5) years beginning 2028, with Benchmarking Requirements
Provisional Compliance: Retro-Commissioning or Audits	15.62.010(F)(2)	June 30, 2028 or five years after certificate of occupancy or temporary certificate of occupancy, whichever is later
Provisional Compliance: Multifamily Measures	15.62.010(F)(2)(b)(ii)	June 30, 2028

Provisional Compliance: Interim and Final Performance Targets	15.62.010(F)(2)(a)	Interim Target Date – 2032 or 10 years after certificate of occupancy or temporary certificate of occupancy, whichever is later Final Target Date – 2042 or 20 years after certificate of occupancy or temporary certificate of occupancy, whichever is later
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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. Owner 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 each month the property is not in compliance with the requirements. The amount of the monthly fine shall not exceed the amount shown in Table 15.62.010(I)(2)(a).

Table 15.62.010(I)(2)(a) Maximum Monthly Fine Amounts

Property Size (square feet)	Amount
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, 2026.
- (4) Monetary penalties may be waived for properties where the owner(s) demonstrates good faith effort to comply.

J. Implementation Authority.

The Conservation Section may adopt rules and regulations for the implementation of this section including, without limitation, the following: amending the requirements to align with the California Building Energy Use Data Access, Benchmarking, and Public Disclosure Requirements; authorizing alternatives to the ENERGY STAR Portfolio Manager, the ENERGY STAR Score, and associated metrics if they become no longer available; extending Conservation Requirement compliance deadlines; establishing processes for alternative compliance, extensions, and exemptions to the Conservation Requirements; updating audit and retro-commissioning standards and qualifications; setting and modifying normalization factors; and amending the list of qualified measures set forth in table 15.62.010(F)(7)(b) as new energy efficient technologies or materials are developed or as minimum State or Federal standards change. The Conservation Section has the authority to administer the requirements of this section, including, without limitation, the following: accepting or rejecting filings; accepting or rejecting requests for exemptions, extensions and adjustments; modifying the Baseline Year and/or the Baseline Year metrics for any particular Property; levying fines in accordance with Section 15.62.010(I)(2); waiving or reducing fines; and disclosing information in accordance with this Section.

K. Compliance with State of California Requirements. It is the intent of the Benchmarking Requirements that, if the executive director of the California Energy Commission determines that the Benchmarking Requirements fulfill the requirements of the California Building Energy Use Data Access, Benchmarking, and Public Disclosure Requirements, any building that complies with the Benchmarking Requirements in a given calendar year is exempt from compliance with section 1683 of the California Building Energy Use Data Access, Benchmarking, and Public Disclosure Requirements for that year.

In the event that there is a conflict between the requirements of Chula Vista Municipal Code 15.62.010 and of the California Building Energy Use Data Access, Benchmarking, and Public Disclosure Requirements, the stricter shall prevail.

The City shall transmit to the Energy Commission all information that is publicly disclosed for a calendar year by August 1 of the following year.

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 executive director of 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.

[SIGNATURES ON THE FOLLOWING PAGE]