

BOARD of SUPERVISORS



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MEMORANDUM

TO: John Updike, Director, Real Estate Division
Deborah Raphael, Director, Department of the Environment

FROM:  Alisa Somera, Legislative Deputy Director, Board of Supervisors

DATE: March 15, 2016

SUBJECT: LEGISLATION REFERRED TO COMMITTEE

On March 8, 2016, Supervisor Avalos introduced the following proposed legislation::

File No. 160222

Ordinance amending the Administrative Code to prohibit the City from entering into or extending leases for the extraction of fossil fuel from City-owned land.

This matter is being referred to you since it may affect your department.

If you have any comments or reports to be considered with the proposed legislation, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email: alisa.somera@sfgov.org.

c: Guillermo Rodriguez, Department of the Environment

1 [Administrative Code - Prohibition on Leasing for the Extraction of Fossil Fuels]

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3 **Ordinance amending the Administrative Code to prohibit the City from entering into or**
4 **extending leases for the extraction of fossil fuel from City-owned land.**

5 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
6 **Additions to Codes** are in *single-underline italics Times New Roman font*.
7 **Deletions to Codes** are in ~~*strikethrough italics Times New Roman font*~~.
8 **Board amendment additions** are in double-underlined Arial font.
9 **Board amendment deletions** are in ~~strikethrough Arial font~~.
10 **Asterisks (* * * *)** indicate the omission of unchanged Code
11 subsections or parts of tables.

12 Be it ordained by the People of the City and County of San Francisco:

13 Section 1. The Administrative Code is hereby amended by adding Section 23.42, to
14 read as follows:

15 **SEC. 23.42. PROHIBITION ON LEASING OF CITY-OWNED LAND FOR THE**
16 **EXTRACTION OF FOSSIL FUELS.**

17 *(a) Title. This Section 23.42 may be cited as the “San Francisco Keep It in the Ground*
18 *Ordinance.”*

19 *(b) Findings.*

20 *(1) The 2014 Fifth Assessment Report of the Intergovernmental Panel on Climate*
21 *Change, a group of independent scientific experts from 195 countries under the auspices of the United*
22 *Nations, states:*

23 *(A) “Warming of the climate system is unequivocal, and since the 1950s, many*
24 *of the observed changes are unprecedented over decades to millennia. The atmosphere and ocean have*
25 *warmed, the amounts of snow and ice have diminished, and sea level has risen The period from*
1983 to 2012 was very likely the warmest 30-year period of the last 800 years in the Northern
Hemisphere, where such assessment is possible (high confidence) and likely the warmest 30-year
period of the last 1400 years.

1 (B) "Human influence on the climate system is clear, and recent anthropogenic
2 emissions of green-house gases are the highest in history. Recent climate changes have had widespread
3 impacts on human and natural systems.

4 (C) "Without additional mitigation efforts beyond those in place today, and even
5 with adaptation, warming by the end of the 21st century will lead to high to very high risk of severe,
6 wide-spread and irreversible impacts globally (high confidence)."

7 (2) The World Meteorological Organization announced that 2015 is likely to be the
8 warmest year on record and that the years 2011-2015 have been the warmest five-year period on
9 record.

10 (3) The San Francisco Bay Conservation and Development Commission's 2011 report,
11 "Living with a Rising Bay," found that a 55-inch sea level rise by the end of the century would cause
12 substantial impacts to San Francisco and California, including: putting \$62 billion of Bay Area
13 shoreline development at risk, increasing the number of people at risk of flooding in the Bay Area to
14 270,000; and requiring at least \$14 billion worth of static structures to protect California's shorelines.

15 (4) At the 2015 United Nations Climate Change Conference (COP 21), 196 parties
16 including the United States, negotiated the Paris Agreement that reaffirms the goal of limiting global
17 temperature increase well below 2 degrees Celsius while urging efforts to limit the increase to 1.5
18 degrees.

19 (5) Climate scientists have published several studies of the world's remaining "carbon
20 budget," which is the maximum amount of future carbon that can be emitted into the atmosphere to
21 provide a certain probability of limiting global temperature increase to 2 degrees Celsius, including:

22 (A) The International Energy Association's "World Energy Outlook 2012"
23 estimates that "no more than one-third of proven reserves of fossil fuels can be consumed prior to 2050
24 if the world is to achieve the 2 degrees Celsius goal."

1 (B) The Carbon Tracker Initiative's 2014 report, "Unburnable Carbon,"
2 estimated that "to reduce the chance of exceeding 2 degrees Celsius warming to 20%," the remaining
3 global carbon budget from 2011 to 2050 was 565 gigatons of carbon out of the 2,795 gigatons of
4 currently known fossil fuel reserves.

5 (6) Senator Jeff Merkley and Congressman Jared Huffman have introduced the "Keep it
6 in the Ground Act" to permanently prohibit new leases for the extraction of fossil fuels on all federal
7 public lands and in federal waters.

8 (7) Prohibiting fossil fuel leases on all City-owned property is consistent with Chapter 9
9 of the Environment Code, "Greenhouse Gas Emissions Targets and Departmental Action Plans,"
10 which states the intent of the Mayor and the Board of Supervisors to protect the health and welfare in
11 a manner that complements state and federal efforts to improve air quality by exercising a leadership
12 role in mandating local actions to reduce global warming. S.F. Environment Code, sec. 900(f).

13 (c) Prohibition. The City shall not enter into any Lease, or extend any existing Lease, that
14 provides for or allows the extraction of fossil fuel from City-owned land. For purposes of this Section
15 23.42, "fossil fuel" shall mean coal, petroleum, kerosene, oil, tar sands, oil shale, gas, and other
16 petroleum or hydrocarbon products that emit carbon monoxide as a byproduct of combustion.

17 (d) Prospective Effect. The prohibition in this Section 23.42 is intended to have prospective
18 effect only, and shall not be interpreted to impair the obligations of any existing Lease entered into by
19 the City before the effective date of this Section, or any reserved rights held by the State of California
20 or other person or entity in a deed or other instrument.

21 (e) Exclusive Jurisdiction Departments. This Section 23.42 shall not apply to any department
22 of the City that has exclusive jurisdiction over its real property to the extent application to that
23 department would violate the Charter or interfere with the department's ability to carry out its core
24 functions under the Charter. The Board of Supervisors urges departments of the City that have


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1 exclusive jurisdiction over real property to adopt policies consistent with the prohibition set forth in
2 this Section.

3 (f) No Cause of Action Against the City. In no event shall any person or entity have the right to
4 bring an action against the City based on any alleged violation or failure to enforce the requirements of
5 this Section 23.42.

6 Section 2. Effective Date. This ordinance shall become effective 30 days after
7 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
8 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
9 of Supervisors overrides the Mayor's veto of the ordinance.

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11 APPROVED AS TO FORM:
12 DENNIS J. HERRERA, City Attorney

13 By: 
14 Elizabeth A. Dietrich
15 Deputy City Attorney
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