

BOARD of SUPERVISORS



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November 2, 2016

File No. 160222

Lisa Gibson
Acting Environmental Review Officer
Planning Department
1650 Mission Street, Ste. 400
San Francisco, CA 94103

Dear Ms. Gibson:

On October 18, 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, and requiring inspections of any such land and evaluation of constructive future uses for such land.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

for Alisa Somera
By: Alisa Somera, Legislative Deputy Director
Land Use and Transportation Committee

Attachment

c: Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning

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, and requiring**
5 **inspections of any such land and evaluation of constructive future uses for such land;**
6 **and affirming the Planning Department's determination under the California**
7 **Environmental Quality Act.**

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

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

17 Section 1. Findings. The Planning Department has determined that the actions
18 contemplated in this ordinance comply with the California Environmental Quality Act
19 (California Public Resources Code Sections 21000 et seq.). Said determination is on file with
20 the Clerk of the Board of Supervisors in File No. _____ and is incorporated herein by
21 reference. The Board affirms this determination.

22 Section 42. The Administrative Code is hereby amended by adding Section 23.42, to
23 read as follows:

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

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

3 (b) Findings.

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

7 (A) “Warming of the climate system is unequivocal, and since the 1950s, many of
8 the observed changes are unprecedented over decades to millennia. The atmosphere and ocean have
9 warmed, the amounts of snow and ice have diminished, and sea level has risen The period from
10 1983 to 2012 was very likely the warmest 30-year period of the last 800 years in the Northern
11 Hemisphere, where such assessment is possible (high confidence) and likely the warmest 30-year
12 period of the last 1400 years.

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

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

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

22 (3) The San Francisco Bay Conservation and Development Commission’s 2011 report,
23 “Living with a Rising Bay,” found that a 55-inch sea level rise by the end of the century would cause
24 substantial impacts to San Francisco and California, including: putting \$62 billion of Bay Area
25

1 shoreline development at risk, increasing the number of people at risk of flooding in the Bay Area to
2 270,000; and requiring at least \$14 billion worth of static structures to protect California's shorelines.

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

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

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

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

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

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

1 (c) Prohibition. The City shall not enter into any lease, or extend any existing lease, that
2 provides for or allows the extraction of fossil fuel from City-owned land. For purposes of this Section
3 23.42, “fossil fuel” shall mean coal, petroleum, kerosene, oil, tar sands, oil shale, gas, and other
4 petroleum or hydrocarbon products that emit carbon dioxide monoxide as a byproduct of combustion.

5 (d) Fossil Fuel Remediation and Constructive Future Use. Regarding any City-owned property
6 that is or was previously leased for fossil fuel extraction:

7 (1) Within six months of the effective date of this Section 23.42, the Director of
8 Property, in coordination with the Department of the Environment, shall inspect such property to
9 ensure that any current or former lessee complies with, or complied with, all applicable federal, state,
10 and local environmental laws. Within 30 days of such inspection, the Director of Property shall submit
11 a report regarding the state of the property to the Board of Supervisors, including whether the Director
12 recommends additional inspections or further action;

13 (2) Upon the termination of any existing lease, the Director of Property, in coordination
14 with the Department of the Environment and the San Francisco Public Utilities Commission, shall
15 inspect such property to conduct an ecological evaluation of the property and ensure that the
16 lessee has removed all equipment and that the state of the property complies with all applicable
17 federal, state, and local environmental laws. Within 30 days of such inspection, the Director of
18 Property shall submit a report regarding the state of the property to the Board of Supervisors,
19 including a report on the value of the property as habitat and potential for restoration, and
20 whether the Director recommends additional inspections or further action; and

21 (3) Within 90 days of the inspection required under subsection (d)(2), ~~the~~
22 Director of Property, in coordination with the Department of the Environment and the San Francisco
23 Public Utilities Commission, shall submit to the Board of Supervisors a “Just Transition Plan” for
24 the property. The Just Transition Plan shall evaluate possible constructive future uses for such
25 property, including renewable electricity generation, recreation, and habitat protection and

1 restoration. The Just Transition Plan shall also assess adverse impacts to workers from the
2 termination of the lease and identify mechanisms to minimize or eliminate those impacts,
3 including potential job creation from the possible constructive future uses and public access.

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

8 (f) Exclusive Jurisdiction Departments. This Section 23.42 shall not apply to any department of
9 the City that has exclusive jurisdiction over its real property to the extent application to that
10 department would violate the Charter or interfere with the department's ability to carry out its core
11 functions under the Charter. The Board of Supervisors urges departments of the City that have
12 exclusive jurisdiction over real property to adopt policies consistent with the prohibition set forth in
13 this Section.

14 (g) Undertaking for the General Welfare. In enacting and implementing this Section, the City is
15 assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on
16 its officers and employees, an obligation for breach of which it is liable in money damages to any
17 person who claims that such breach proximately caused injury.

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

22 APPROVED AS TO FORM:
23 DENNIS J. HERRERA, City Attorney

24 By: _____
25 Elizabeth A. Dietrich

Deputy City Attorney

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REVISED LEGISLATIVE DIGEST
(11/1/2016, Amended in Board)

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

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, and requiring inspections of any such land and evaluation of constructive future uses for such land; and affirming the Planning Department's determination under the California Environmental Quality Act.

Existing Law

Current law does not restrict the extraction of fossil fuel from City-owned land.

Amendments to Current Law

This ordinance would amend the Administrative Code to prohibit the City from entering into or extending leases for the extraction of fossil fuel from City-owned land.

Background Information

The City and County of San Francisco owns real property located outside of its boundaries throughout California, including at least one parcel in Kern County that was bequeathed to the City and is currently leased for oil and natural gas extraction. As a means of furthering the goals of reducing greenhouse gas emissions and exercising leadership in local actions to reduce global warming, this ordinance: (a) prohibits the City from extending any such existing leases and from entering into any new fossil fuel leases on all City-owned property; and (b) requires the City to inspect any such property to ensure compliance of the property with environmental laws, and to evaluate possible constructive future uses for the property.

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