

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

2
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

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

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

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

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

19 (a) Title. This Section 23.42 may be cited as the "San Francisco Keep It in the Ground
20 Ordinance."

21 (b) Findings.

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

25 (A) "Warming of the climate system is unequivocal, and since the 1950s, many of
the observed changes are unprecedented over decades to millennia. The atmosphere and ocean have
warmed, the amounts of snow and ice have diminished, and sea level has risen . . . The period from

1 1983 to 2012 was very likely the warmest 30-year period of the last 800 years in the Northern
2 Hemisphere, where such assessment is possible (high confidence) and likely the warmest 30-year
3 period of the last 1400 years.

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

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

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

13 (3) The San Francisco Bay Conservation and Development Commission's 2011 report,
14 "Living with a Rising Bay," found that a 55-inch sea level rise by the end of the century would cause
15 substantial impacts to San Francisco and California, including: putting \$62 billion of Bay Area
16 shoreline development at risk, increasing the number of people at risk of flooding in the Bay Area to
17 270,000; and requiring at least \$14 billion worth of static structures to protect California's shorelines.

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

22 (5) Climate scientists have published several studies of the world's remaining "carbon
23 budget," which is the maximum amount of future carbon that can be emitted into the atmosphere to
24 provide a certain probability of limiting global temperature increase to 2 degrees Celsius, including:
25

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

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

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

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

16 (c) Prohibition. The City shall not enter into any lease, or extend any existing lease, that
17 provides for or allows the extraction of fossil fuel from City-owned land. For purposes of this Section
18 23.42, "fossil fuel" shall mean coal, petroleum, kerosene, oil, tar sands, oil shale, gas, and other
19 petroleum or hydrocarbon products that emit carbon monoxide as a byproduct of combustion.

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

22 (1) Within six months of the effective date of this Section 23.42, the Director of
23 Property, in coordination with the Department of the Environment, shall inspect such property to
24 ensure that any current or former lessee complies with, or complied with, all applicable federal, state,
25 and local environmental laws. Within 30 days of such inspection, the Director of Property shall submit

1 a report regarding the state of the property to the Board of Supervisors, including whether the Director
2 recommends additional inspections or further action;

3 (2) Upon the termination of any existing lease, the Director of Property, in coordination
4 with the Department of the Environment, shall inspect such property to ensure that the lessee has
5 removed all equipment and that the state of the property complies with all applicable federal, state, and
6 local environmental laws. Within 30 days of such inspection, the Director of Property shall submit a
7 report regarding the state of the property to the Board of Supervisors, including whether the Director
8 recommends additional inspections or further action; and

9 (3) The Director of Property, in coordination with the Department of the Environment
10 and the San Francisco Public Utilities Commission, shall evaluate possible constructive future uses for
11 such property, including renewable electricity generation and public access.

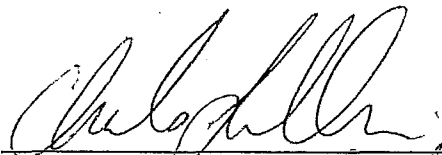
12 (e) Prospective Effect. The prohibition in this Section 23.42 is intended to have prospective
13 effect only, and shall not be interpreted to impair the obligations of any existing lease entered into by
14 the City before the effective date of this Section, or any reserved rights held by the State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

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

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

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

5 APPROVED AS TO FORM:
6 DENNIS J. HERRERA, City Attorney

7
8 By: 
9 Elizabeth A. Dietrich (Charles Sullivan)
10 Deputy City Attorney
11 n:\leganas2016\1600510\01143631.docx

REVISED LEGISLATIVE DIGEST

(Substituted, 10/18/2016)

[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, requiring inspections of any such land and evaluation of constructive future uses for such land.

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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Item 7 File 16-0222	Department: Real Estate Division (Real Estate)
EXECUTIVE SUMMARY	
Legislative Objectives	
<p>The proposed ordinance would amend the Administrative Code to add Section 23.42 to prohibit the City from entering into new leases or extending existing leases for the extraction of fossil fuels from City-owned land.</p>	
Key Points	
<ul style="list-style-type: none"> • “Fossil fuel” in Administration Code Section 23.42 refers to coal, petroleum, kerosene, oil, tar sands, oil shale, gas, and other petroleum or hydrocarbon products that emit carbon monoxide as a byproduct of combustion. Chapter 9 Section 900(f) of the Environment Code states that it is the intent of the Mayor and the Board of Supervisors to protect health and welfare in a manner that complements state and federal efforts to improve air quality by exercising a leadership role in mandating local actions to reduce global warming. • The proposed ordinance does not apply to any City department that has exclusive jurisdiction over its real property to the extent that applying this ordinance would violate the Charter or interfere with the Department’s ability to carry out its core functions under the Charter. • The City currently has an oil and gas lease with Chevron for 800 acres in Kern County, bequeathed to the City in 1941. Lease revenues are allocated to the Library and Recreation and Park Department. 	
Fiscal Impact	
<ul style="list-style-type: none"> • Chevron paid the City lease revenues totaling \$3,727,024 over a five-year period. If the proposed ordinance is approved, the City would lose an estimated \$319,597 per year beginning in March 2020 when the current lease terminates. 	
Policy Consideration	
<ul style="list-style-type: none"> • The 800 acre property under lease between the City and Chevron could be sold to a buyer who would assume the lease with Chevron until lease expiration in March 2020, with a deed restriction preventing a renewal of the lease or execution of future leases for oil and gas extraction. • Terminating the lease between the City and Chevron would result in an estimated revenue loss to the Public Library and Recreation and Park Department of \$319,597 per year. Other City-owned parcels in Fresno and Kern Counties could be leased by the Real Estate Division to a private solar power company, resulting in an estimated \$484,000 per year that could make up the revenue loss. 	
Recommendation	
<ul style="list-style-type: none"> • Approval of the proposed ordinance is a policy matter for the Board of Supervisors. 	

MANDATE STATEMENT

City Charter Section 2.105 states that the Board of Supervisors shall act only by written ordinance or resolution.

BACKGROUND

The 2014 Fifth Assessment Report of the Intergovernmental Panel on Climate Change, a group of independent scientific experts from 195 countries under the auspices of the United States, found that 1983 to 2012 was very likely the warmest 30-year period of the last 800 years in the Northern Hemisphere. The report also found that green-house gas emissions¹ caused by human behavior—which climate scientists believe to be the main cause of recent global warming—are the highest in history and have influenced the climate system.

At the 2015 United Nations Climate Change Conference, 196 parties, including the United States, negotiated the Paris Agreement that reaffirms the goal of limiting the global temperature increase to well below 2 degrees Celsius, while urging to limit the increase to 1.5 degrees.

Impacts of Global Warming in San Francisco

According to the San Francisco Bay Conservation and Development Commission's 2011 report, "Living with a Rising Bay," a 55-inch sea level rise by the end of the century due to climate change would cause substantial impacts to San Francisco and California, including shoreline development and infrastructure, and residents living and working close to the shoreline.

Climate Action Plan in San Francisco

In May 2008, the Board of Supervisors adopted Ordinance No. 81-08 to establish greenhouse gas emission goals and department action plans. The Department of the Environment was assigned responsibility for determining the 1990 baseline greenhouse gas emissions for City departments, and setting goals to reduce greenhouse gas emissions for city departments:

- By 2017, reduce greenhouse gas emissions by 25 percent below 1990 levels;
- By 2025, reduce greenhouse gas emissions by 40 percent below 1990 levels; and
- By 2050, reduce greenhouse gas emissions to 80 percent below 1990 levels.

The San Francisco Public Utilities Commission (SFPUC) created a Climate Action Plan in 2004, which was updated in 2013, outlining citywide actions to reduce greenhouse gas emissions in the energy, transportation and solid waste sectors. In addition, SFPUC's 2011 Updated Electricity Resource Plan identifies SFPUC's strategies to provide electricity from renewable and zero greenhouse gas sources by 2030.

¹ Greenhouse gas or greenhouse gases means and includes all of the following gases: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would amend the Administrative Code to add Section 23.42 to prohibit the City from entering into new leases or extending existing leases for the extraction of fossil fuels from City-owned land. "Fossil fuel" in Administration Code Section 23.42 refers to coal, petroleum, kerosene, oil, tar sands, oil shale, gas, and other petroleum or hydrocarbon products that emit carbon monoxide as a byproduct of combustion. According to the proposed ordinance, prohibiting fossil fuel leases on all City-owned property is consistent with Chapter 9 Section 900(f) of the Environment Code, "Greenhouse Gas Emissions Targets and Departmental Action Plans," which states the intent of the Mayor and the Board of Supervisors to protect health and welfare in a manner that complements state and federal efforts to improve air quality by exercising a leadership role in mandating local actions to reduce global warming.

The proposed ordinance does not apply to any City department that has exclusive jurisdiction over its real property to the extent that applying this ordinance would violate the Charter or interfere with the Department's ability to carry out its core functions under the Charter.

Existing City Lease for Fossil Fuel Extraction

According to Mr. John Updike, Director of the Real Estate Division, the City currently has one lease that is used for the extraction of fossil fuels. In 1941, Alfred Fuhrman bequeathed Kern Oil Field, approximately 800 acres of land in Kern County, to the City. Shell Oil Company leased Kern Oil Field in 1963 from the City for an initial term of 35 years through March 1998 for the purpose of mining, exploring, and operating for oil, gas, and other hydrocarbon substances, and paid the City a fixed royalty of 12.5 percent of gross revenues. The Shell Oil Company was responsible for maintenance costs and taxes for Kern Oil Field. Mr. Fuhrman requested that all revenues to the City from Kern Oil Field be equally divided between the San Francisco Public Library, and the Recreation and Park Department.²

In May 1994, the City extended the lease through March 31, 2020 and increased the fixed royalty payable to the City to 15.5 percent. Chevron USA, Inc. is now the lessee of this lease agreement after a merger between Chevron and Texaco in 2001, which led to the consolidation of a number of firms, including the original Shell Oil Company.³

FISCAL IMPACT

As shown in Table 1 below, from 2011 to 2015, under the lease between Chevron and the City for the use of Kern Oil Field, Chevron paid the City royalty revenues totaling \$3,727,024. The proposed ordinance would result in the termination of this lease on March 31, 2020 when the lease expires, at which point the City would no longer receive royalty revenues.

² Revenues received by the Public Library can be used to acquire library collection materials in all formats, while revenues earned by the Recreation and Parks Department can be used for the adornment of Golden Gate Park.

³ In 1995, Shell Oil Company (Shell) formed and transferred the obligations of this lease to Cal Resources, LLC. In 1997, Shell renamed Cal Resources, LLC to Aera Energy, LLC. In 1999, Texaco California and Aera Energy completed a trade of assets, and the lease was transferred to Texaco California. In 2001, Chevron and Texaco merged to form Chevron Texaco Corporation. Texaco subsequently became a brand of Chevron.

Table 1. Annual Lease Revenues Paid by Chevron to the City for the Kern Oil Field Lease from 2011 to 2015^a

Year	Total Lease Revenues
2011	\$ 951,840
2012	801,446
2013	820,559
2014	833,581
2015	319,597
Total	\$ 3,727,024

Source: Real Estate Division staff.

^a Lease revenues paid to the City are net of property taxes paid by Chevron

According to Mr. Updike, revenues from Kern Oil Field have been in decline in recent years because of decreasing yield from Kern Oil Field and a lower fair market value for fossil fuels. As shown in Table 1 above, in 2015 the City received \$319,597 in total revenues.

POLICY CONSIDERATION

Alternative Use of Kern Oil Field

According to Mr. Updike, the Real Estate Division recommends selling the 800 acre property under lease between the City and Chevron to a buyer who can assume the remaining oil/gas revenue stream until lease expiration in March 2020, with a deed restriction preventing a renewal of the lease or execution of future leases for oil and gas extraction.

Potential Alternative Revenues

As noted above, revenues generated by the oil and gas lease between the City and Chevron are allocated to the Public Library and Recreation and Park Department. Terminating the lease would result in a revenue loss of \$319,597 per year, based on 2015 revenues, of which \$159,798 would be reduced revenues to the Recreation and Park Department and \$159,798 would be reduced revenues to the Library.

SFPUC has evaluated use of 484 acres in Kern County and Fresno County as a solar power project.^{4, 5} According to Mr. Updike, the City could potentially lease the 484-acre site in Kern County and Fresno County to a private solar energy company, at an estimated rent of \$1,000 per acre or \$484,000 per year. These revenues of \$484,000 per year could be used to offset the revenue loss to the Public Library and Recreation and Park Department from termination of the existing lease between the City and Chevron.

RECOMMENDATION

Approval of the proposed ordinance is a policy matter for the Board of Supervisors.

⁴ Total acreage in Kern County and Fresno County, bequeathed to the City in 1941 by Alfred Fuhrman, is 1480 acres, which includes 800 acres under lease to Chevron.

⁵ AEPC Group, LLC prepared a report in June 2016 for the SFPUC Renewable Energy Generation Group, evaluating the feasibility of generating solar power on the 680 acres in Kern County and Fresno County not under lease to Chevron.

BOARD of SUPERVISORS



City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

MEMORANDUM

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

FROM: *JS* 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

President, District 5
BOARD of SUPERVISORS



BOS-11, COB, LV
B+F, Leg Dep.,
Dep. city atty
Mayors
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-7450
Fax No. 554-7454
TDD/TTY No. 544-5227

London Breed

PRESIDENTIAL ACTION

Date: April 15, 2016
To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,
Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. _____ (Primary Sponsor)

Title. _____

Transferring (Board Rule No. 3.3)

File No. 160222 Avalos
(Primary Sponsor)

Title. Prohibition on Leasing for the Extraction of E₁

From: Land Use & Economic Development Committee

To: Budget & Finance Sub Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor _____

Replacing Supervisor _____

For: _____ Meeting
(Date) (Committee)

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2016 MAY -5 PM 12:08

London Breed, President
Board of Supervisors

Print Form

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10/18/16 @ 5:04pm
[Signature]

Introduction Form

By a Member of the Board of Supervisors or the Mayor

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [] inquires"
- 5. City Attorney request.
- 6. Call File No. [] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [160222]
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on []

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission Youth Commission Ethics Commission
- Planning Commission Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative

Sponsor(s):

Supervisors Avalos, Breed, Campos, Cohen, Kim, Mar, Peskin, Wiener, Yee

Subject:

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

The text is listed below or attached:

[Empty box for text listing]

Signature of Sponsoring Supervisor:

[Handwritten Signature]

For Clerk's Use Only:

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

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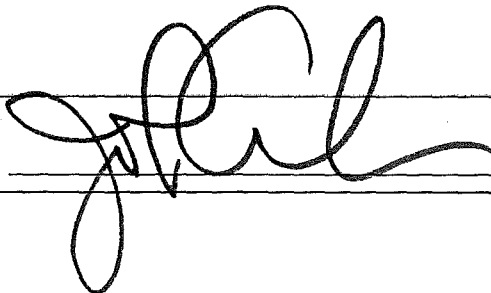
Subject:

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

The text is listed below or attached:

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Signature of Sponsoring Supervisor: _____



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