File Nos.	101105	Committee	Item Nos.		4
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COMMITTEE/BOARD OF SUPERVISORS

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An asterisked item represents the cover sheet to a document that exceeds 25 pages.

The complete document can be found in the file.

[Environment Code - Existing Commercial Buildings Energy Performance]

Ordinance amending the San Francisco Environment Code by adding Chapter 20, Sections 2000 through 2009, to adopt the San Francisco Existing Commercial Buildings Energy Performance Ordinance, requiring owners of nonresidential buildings to conduct Energy Efficiency Audits of their properties and file Annual Energy Benchmark Summaries for their buildings, and making environmental findings.

NOTE: Additions are <u>single-underline italics Times New Roman</u>; deletions are <u>strike through italics Times New Roman</u>.

Board amendment additions are <u>double-underlined</u>;

Board amendment deletions are strikethrough normal.

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

Section 1. Environmental Findings. The Planning Department has determined that the actions contemplated in this ordinance are in compliance with the California

Environmental Quality Act (Cal. Pub. Res. Code §§ 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 101105 and is incorporated herein by reference.

Section 2. Findings.

- 1. San Francisco is one of the oldest urban areas in California. Many of the City's buildings were built before energy efficiency codes were enacted.
- 2. Systems for lighting, heating, cooling, ventilation, and other services in commercial buildings require regular tuning to operate as designed, as well as periodic retrofits to meet modern standards for energy efficiency.

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- 3. San Francisco's buildings use electricity partially supplied by fossil-fuel burning power plants and heat that is primarily supplied by the combustion of natural gas both of which emit carbon dioxide, a cause of global warming.
- 4. Building energy use accounts for almost half of San Francisco's overall carbon dioxide emissions, and buildings account for sixty-three percent of the City's carbon dioxide emissions. Reducing energy use also reduces carbon dioxide emissions and San Francisco's contribution to global warming.
- 5. The City has established high environmental performance standards for new construction. However, to minimize the pollution and carbon emissions of energy consumption, as well as demands upon the local electrical grid, enhanced energy efficiency is necessary for existing buildings as well.
- 6. San Francisco began delivering energy efficiency services to the private sector in 2002, prioritizing incentives to small business. These services provided upgraded equipment to more than 8,000 businesses and have reduced commercial energy costs by more than \$20 million per year.
- 7. The City and County of San Francisco is conducting an aggressive municipal building energy efficiency program administered by the Public Utilities Commission. Since 2002, the City's energy efficiency program has completed more than 140 investment-grade energy audits and upgraded more than 100 municipal buildings, investing more than \$35 million in municipal energy efficiency improvements.
- 8. The Existing Commercial Buildings Task Force established in 2009 has recommended systematically identifying all cost-effective opportunities to improve the energy efficiency of commercial buildings citywide.
- 9. Recognizing the value of measurement and transparency as tools to enable effective management of resources, the Existing Commercial Buildings Task Force

recommended that energy audits and public disclosure of building performance data be made available to all building stakeholders.

- 10. By ensuring that every non-residential building owner, operator, manager, tenant, and their agents is informed about the full set of opportunities to cost effectively improve energy efficiency, the numerous subsidies and incentives available, and how each building is performing relative to its peers, non-residential building decision makers will have every incentive to make decisions in their own interest, to reduce utility costs and improve the competitiveness of San Francisco properties.
- 11. The Department of Environment operates energy efficiency programs that have provided free energy audits for more than 8,000 small businesses and multifamily buildings. These programs upgrade lighting, heating, cooling, and refrigeration systems at a discount averaging in excess of 50 percent of total cost of the upgrade.
- 12. The Department of Environment estimates that energy efficiency audits and public sharing of energy performance information, in combination with existing financing and incentive programs, will double the pace of energy efficiency retrofit activity in commercial sector for the first five years after adoption of this ordinance.
- 13. Cost-effective investments in energy efficiency are anticipated to reduce citywide carbon dioxide emissions by more than 70,800 tons over the first five years after adoption, with a net present value to the private sector exceeding \$600 million dollars.
- 14. The evaluation, upgrade, and optimized operation of commercial buildings will expand opportunities for skilled jobs in construction trades, engineering, operations, sales, and innovative technologies. Investing in energy efficiency will contribute to stable, long-term economic growth, encourage job creation, and enhance stewardship of natural resources.

Section 3. The San Francisco Environment Code is hereby amended, by adding Chapter 20, Sections 2000 through 2009, to read as follows:

SEC. 2000. TITLE AND PURPOSE.

This Chapter may be referred to as the Existing Commercial Buildings Energy Performance

Ordinance.

To encourage efficient use of energy, this Chapter requires owners of nonresidential buildings in San Francisco to obtain energy efficiency audits, as well as to annually measure and disclose energy performance. It also requires the Department of Environment to collect summary statistics about the energy performance of nonresidential buildings and make those statistics available to the public.

SEC. 2001. DEFINITIONS.

For purposes of this Chapter, the following terms shall have the following meanings:

- 1. "Annual Energy Benchmark Summary" means a report to the Department of Environment summarizing the annual energy performance of a whole building for purposes of verifying compliance with this chapter, tracking improvement, motivating improved energy performance, targeting incentives and resources, and enabling comparison to similar facilities.
- 2. "Building Owner" means a person, as defined by California Public Resources Code Section

 25116 or any successor legislation, possessing title to the building. For buildings owned or primarily

 occupied by City departments, the department or entity responsible for annual greenhouse gas

 emmissions reporting for the building under Section 904 of this Code may act as the "building owner"

 for purposes of this Chapter.
- 3. "Building Characteristics" means basic descriptive information and reasonable estimates of factors affecting energy use in the building, including but not limited to building type and space attributes as defined by the benchmarking tool(s).
 - 4. "Director" means the Director of the Department of the Environment, or his or her designee.

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5. "Energy" means electricity, natural gas, steam, heating oil, or other produc	t sold by a utilit
to a customer of a nonresidential 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.	•

- 6. "Energy efficiency audit" means a systematic evaluation to identify modifications and improvements to building equipment and systems which utilize energy, meeting or exceeding the Procedures for Commercial Building Energy Audits published by the American Society of Heating, Refrigerating, and Air-conditioning Engineers Inc. (ASHRAE), or similar comprehensive whole-building evaluation, as determined by the Director, or, in the case of municipal buildings, as determined by the General Manager of the Public Utilities Commission.
- 7. "Energy Professional" means an individual qualified to perform energy efficiency audits required by this Chapter, as further detailed in Section 2002(c) of this Chapter.
- 8. "ENERGY STAR® Portfolio Manager" means the US Environmental Protection Agency's online tool for managing building data, used to create a US EPA Energy Performance Rating.
- 9. "ENERGY STAR® Portfolio Manager Energy Performance Rating" means the US

 Environmental Protection Agency's 1-to-100 building energy efficiency measurement, normalized for a building's characteristics, operations, and weather, according to methods established by US EPA's ENERGY STAR® Portfolio Manager.
- 10. "Gross Floor Area" or "Area" means the total number of square feet measured between the principal exterior surfaces of enclosing fixed walls.
- 11. "kBTU" means kilo (thousand) British thermal units, a common unit of energy measurement utilized to convert and combine other common energy measurements such as kilowatt hours of electricity, therms of natural gas, and pounds of steam.
- 12. "Level I Audit" means a brief on-site survey of a building which identifies and provides cost analysis for low-cost and no-cost energy saving measures, and lists potential capital improvements,

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meeting the Level I standard of Procedures for Commercial Building Energy Audits published by	the
American Society of Heating, Refrigerating, and Air-conditioning Engineers Inc. (ASHRAE)	
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- 13. "Level II Audit" means a detailed on-site survey and energy analysis which identifies and provides savings and cost analysis of all practical measures and meets the Level II standard of Procedures for Commercial Building Energy Audits published by the American Society of Heating, Refrigerating, and Air-conditioning Engineers Inc. (ASHRAE).
- 14. "Net Present Value" means the value in today's dollars of all future costs and benefits from an investment, after compensating for the effects of interest.
- 15. "Nonresidential building" and "building" mean a facility of composed of occupancy type(s)
 other than residential including type A, B, E, I-1, I-2, I-3, M, R1 and S, as defined by California
 Building Code Title 24 Section 302 (2010) as amended where a gross area of 10,000 square feet or
 more is heated or cooled in its interior.
- 16. "Retro-Commissioning Measures" mean non-capital work such as repairs, maintenance, adjustments, changes to controls or related software, or operational improvements that optimize a building's energy performance and that have been identified by a systematic process of investigating and analyzing the performance of a building's equipment and systems that impact energy consumption.
- 17. "Retrofit Measures" mean capital alterations of building systems involving the installation of energy efficiency technologies that reduce energy consumption and improve the efficiency of such systems.
- 18. "Simple Payback" means the number of years it takes for the projected annual energy savings to pay back the amount invested in the energy efficiency measure, as determined by dividing the investment by the annual energy savings.
- 19. "System" means a building assembly made up of various components that serve a specific function, including but not limited to exterior walls, windows, doors, roofs, ceilings, floors, lighting,

piping, ductwork, insulation, HVAC system equipment or components, electrical appliances and plumbing appliances.

20. "Tenant" means a person, as defined by California Public Resources Code 25116 or any successor legislation, who leases space in a nonresidential building.

SEC. 2002. ENERGY PERFORMANCE EVALUATION AND REPORTING REQUIRED.

- (a) Energy Efficiency Audits and Energy Efficiency Audit Reports. The owner of any nonresidential building with a gross area of 10,000 square feet or greater shall conduct a comprehensive energy efficiency audit for each such building not less than once every 5 years, as applicable. Energy efficiency audits shall comprehensively examine whole buildings, and must be completed on the schedule set forth in Section 2004, subds. (a) through (c), of this Chapter, or as described in Section 2006, as applicable.
- (b) Energy Efficiency Audit Standards. Energy efficiency audits required by this Chapter shall meet or exceed the American Society of Heating, Refrigerating, and Air-conditioning Engineers (ASHRAE) Procedures for Commercial Building Energy Audits (2004), or shall comply with Section 2006, as applicable. Energy efficiency audits must be performed by, or under the supervision of, an energy professional as defined in subsections 9c) and (d), below. The level of detail required in an energy efficiency audit shall be proportionate to the scale of the nonresidential building, such that:
- (1) Buildings greater than 50,000 square feet in gross area shall receive a comprehensive audit of the whole building which meets or exceeds the Level II Audit standard or equivalent as determined by the Director.
- (2) Buildings greater than 10,000 square feet and less than or equal to 49,999 square feet in gross area receive a walkthrough audit of the whole building which meets or exceeds the Level I audit standard, or equivalent as determined by the Director.

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1	(c) Energy Efficiency Auditor Qualifications. An energy professional performing or
2	supervising energy efficiency audits must be able to demonstrate possession in good standing of at leas
3	one of the following minimum qualifications:
4	(1) Licensed Engineer and one of the following:
5	(A) At least 2 years experience performing energy efficiency audits or
6	commissioning of existing buildings; or
7	(B) ASHRAE Commissioning Process Management Professional Certification;
8	<u>or</u>
9	(C) Similar qualifications in energy efficiency analysis or commissioning.
10	(2) Association of Energy Engineers Certified Energy Manager (CEM), and at least
11	2 years experience performing energy efficiency audits or commissioning of existing buildings;
12	(3) At least 10 years experience as a building operating engineer, or at least 5 years
13	experience as a chief operating engineer and one of the following:
14	(A) BOC International Building Operator Certification; or
15	(B) International Union of Operating Engineers Certified Energy Specialist; or
16	(4) Equivalent professional qualifications to manage, maintain, or evaluate building
17	systems, as well as specialized training in energy efficiency audits and maintenance of building
18	systems, as determined by the Director.
19	(d) Energy Efficiency Audit Report. The energy professional shall prepare, sign, and deliver
20	to the owner of the covered building a report of the energy efficiency audit which meets or exceeds the
21	reporting standards set forth in ASHRAE Procedures for Commercial Building Energy Audits (2004 o
22	later), or equivalent as determined by the Director pursuant to this Section or Section 2006, as
23	applicable. The signed report shall be delivered to the owner of the covered building. In the course of
24	meeting the relevant ASHRAE standards for communication, the energy efficiency audit report shall
25	include:
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1	(1) The date(s) that the audit was performed;
2	(2) A list of all retro-commissioning and retrofit measures available to the owner,
3	(3) An estimate of the approximate energy savings, avoided energy cost, and costs to
4	implement each measure; and
5	(4) One of the following:
6	(A) A list of all retro-commissioning and retrofit measures available to the
7	owner with a simple payback of not more than 5 years; or
8	(B) A list of all retro-commissioning and retrofit measures available to the
9	owner with a positive net present value; or
0	(C) An integrated package of retro-commissioning and retrofit measures that in
1	combination will equal or exceed the total combined reduction in energy consumption of implementing
2	all retrofit and retro-commissioning measures with a simple payback of not more than 5 years.
3	(e) Tracking and benchmarking energy performance. Building owners shall use "EPA"
4	ENERGY STAR® Portfolio Manager" to track the total energy use of each non-residential building and
5	obtain an ENERGY STAR® Portfolio Manager Energy Performance Rating for each applicable entire
6	nonresidential building according to the schedule provided in Section 2004.
7	
8	SEC. 2003. DISCLOSURE OF ENERGY PERFORMANCE INFORMATION.
9.	(a) Annual Energy Benchmark Summary Reporting. The owner of every non-residential
0	building of greater than 10,000 gross square feet in the City shall annually file with the Department of
1	the Environment an Annual Energy Benchmark Summary report ("AEBS") for each covered building
2	using ENERGY STAR® Portfolio Manager and according to the schedule set forth in Section 2004 of
3	this Chapter. The AEBS shall be based on assessment in Portfolio Manager of the entire non-
4	residential building and related facilities, and must use 12 continuous months of data ending no earlier
5	
,	都是一切的人的复数形式,我没有不知道,这一点,这个问题,但是我们的时间,不知道在我们的,我们是一个各种的人的事情看到她是是严重的第二人

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1	than two months prior to submittal to the Department of the Environment. Data required in the AEBS
2	shall be limited to:
3	(1) Descriptive Information.
4	Basic descriptive information to track compliance with this ordinance, including but not
5	limited to the building address, the individual or entity responsible for the energy performance
6	summary and energy efficiency audit, and similar information required by the Director for purposes of
7	tracking and reporting compliance.
8	(2) Energy Benchmark Information.
9	(A) The ENERGY STAR® Portfolio Manager Energy Performance Rating for the
10	building, wherever applicable;
11	(B) The nonresidential building energy rating established by the State of
12	California for the building, if applicable;
13	(C) The weather-normalized energy use intensity per unit area per year (kBTU
14	per square foot per year) for the building:
15	(D) The energy use intensity per unit area per year (kBTU per square foot per
16	year) for the building;
17	(E) The annual carbon dioxide equivalent emissions due to energy use for the
18	building as estimated by ENERGY STAR® Portfolio Manager or other tools approved by the Director
19	in a manner consistent with Department Climate Action Plan Reporting procedures; and
20	(F) Descriptive information required by Portfolio Manager to assess the
21	property, such as facility gross square footage.
22	(b) Energy Efficiency Audit Reporting. The owner of every non-residential building shall file
23	a Confirmation of Energy Efficiency Audit for each covered building with the Department of the
24	Environment according to the schedule set forth in Section 2004 or Section 2006 of this Chapter, as
25	applicable. The Confirmation of Energy Efficiency Audit shall be limited to:

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	(
1	(1) Acknowledgement of the type of energy efficiency audit required for the
2	nonresidential building,
3	(2) For the most recent energy efficiency audit meeting these requirements, a summary
4.	<u>of:</u>
5	(A) The date(s) that the audit was performed, along with affirmation by the
6	energy professional and building owner that the audit meets the applicable standards;
7	(B) A list of all retro-commissioning and retrofit measures available to the
8	owner with a simple payback of not more than 3 years, or with a beneficial net present value, or in an
9	integrated package of measures; and,
10	(C) The sum of estimated costs, as well as the sum of estimated energy savings i
11	the list of identified measures, and indication which measures at the option of the owner have been
12	implemented;
13	(c) Publication of Limited Summary Data. The Department of the Environment shall make
14	available to the public, and update at least annually, the following information:
15	(1) Summary statistics on energy use in nonresidential buildings in San Francisco
16	derived from aggregation of Annual Energy Benchmark Summary reports, aggregation of Confirmation
17	of Energy Efficiency Audits, and relevant additional aggregate data as available;
18	(2) Summary statistics on overall compliance with this Chapter;
19	(3) For each covered building:
20	(A) The status of compliance with the requirements of this Chapter;
21	(B) The minimum required ASHRAE level for an energy efficiency audit;
22	(C) The most recent date when an energy efficiency audit meeting the required
23	ASHRAE level was completed;
24	(D) Annual summary statistics for the whole building from the Annual Energy
25	Benchmark Summary, including annual average energy use intensity, ENERGY STAR® Portfolio

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Manager Energy Performance Rating where available, California nonresidential energy performance ratings if available, and annual carbon dioxide emissions attributable to energy use in the building.

- (d) Tenant Notification. In order to engage building occupants in efforts to save energy, building owners must make the Annual Energy Benchmark Summary report available to all tenants occupying the building.
- (e) Individually-Metered Tenant Spaces. Where a unit or other space in a covered building is occupied by a tenant and such unit or space is separately metered by a utility company, the owner of the building shall acquire energy usage data for all meters in the building solely for the purpose of benchmarking the energy performance of the building as a whole. Nothing in this Chapter shall require or in any way change the ability of a building owner to report or disclose energy usage of individual tenants.
- (f) Quality Assurance. To assist with the reliability and utility of Annual Energy Benchmark Summary and Confirmation of Energy Efficient Audit report data, as well as to verify good faith compliance with this Chapter, the Director shall have the authority to review relevant documents, including an ENERGY STAR® Statement of Energy Performance signed by an energy professional, or Energy Efficiency Audit Report. In the event an energy efficiency audit report or Statement of Energy Performance is found to have failed to meet the criteria in Section 2002(a) through (d). The Director may apply the administrative penalties specified in Section 2009, and the building owner shall correct the errors and resubmit the energy efficiency audit report or Statement of Energy performance within 45 days of being notified by the Director of the insufficiencies of the original submission.

Any energy-related information obtained in the course of Quality Assurance beyond items explicitly required to be made public in Section 2003(c) shall remain confidential to the extent permitted by law, unless designated in writing by the building owner to be public or otherwise demonstrated to be common knowledge.

(1) For a non-residential building with gross area greater than 50,000 square feet, the owner must complete and submit the initial Annual Energy Benchmark Summary report on or before October 1, 2011, and annually no later than April 1 thereafter. Annual Energy Benchmark Summary report data submitted prior to January 1, 2012 shall not be published, is exempt from Section 2003(c) and (d) of this Chapter, and shall remain confidential to the extent permitted by law, unless designated in writing by the building owner to be public or otherwise demonstrated to be common knowledge.

(2) For a non-residential building with gross area greater than 25,000 square feet but less than or equal to 49,999 square feet, the owner must complete and submit the initial AEBS on or before April 1, 2012, and annually no later than April 1 thereafter. Annual Energy Benchmark Summary report data submitted prior to January 1, 2013 for buildings less than or equal to 50,000 square feet shall not be published, is exempt from Section 2003(c) and (d) of this Chapter, and shall remain confidential to the extent permitted by law, unless designated in writing by the building owner to be public or otherwise demonstrated to be common knowledge.

(3) For a non-residential building with gross area greater than 10,000 square feet but less than 24,999 square feet, the owner must complete and submit the initial AEBS on or before April 1, 2013, and annually no later than April 1 thereafter. Annual Energy Benchmark Summary report data submitted prior to January 1, 2013 for buildings less than or equal to 25,000 square feet shall not be published, is exempt from Section 2003(c) and (d) of this Chapter, and shall remain confidential to the extent permitted by law, unless designated in writing by the building owner to be public or otherwise demonstrated to be common knowledge.

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(b) Energy Efficiency Audits and Reporting.

(1) No later than 120 days after enactment of this Chapter, the Department of

Environment shall establish a schedule for energy efficiency audit reports for nonresidential buildings

not covered by Section 2006, such that:

(A) To ensure sufficient energy auditing capacity, due dates for initial energy efficiency audits for all covered buildings shall be staggered over a three five year rolling deadline, starting no later than 12 18 months after the effective date of this ordinance, with subsequent energy efficiency audits and energy efficiency audit reports due every five years thereafter.

(B) All buildings required to undertake an energy efficiency audit shall be assigned a specific date when a completed energy efficiency audit is due.

(C) The Department of Environment shall notify the owner of each covered building of the requirements of this article one year prior to the date an energy efficiency audit is required to be completed.

(2) The owners of covered buildings in existence on the effective date of this Chapter may comply with the first assigned due date for an energy efficiency audit by submitting records of audits, retro-commissioning, and retrofits performed not more than 3 years prior to the effective date of this ordinance, provided that the entire building was evaluated and that the energy efficiency audit reports performed prior to the completion of rule-making are signed and dated by a Professional Engineer, Certified Energy Manager, Certified Energy Auditor, or person with similar professional credentials as determined by the Director. Such submittals shall include certification that all work associated with the audit (including but not limited to surveys, inspections, and analyses) was completed not more than 3 years prior to the effective date of this ordinance, and meets at least one of the following criteria:

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•	(A) 1	For buildings	greater than .	<u>50,000 squar</u>	e feet in gros	s area, e	energy
efficiency at	udits performed	prior to the c	completion of	rule-making)	must meet the	e Level 1	I audit
standard.				·		•	

(B) For buildings 49,999 square feet in gross area or less, energy efficiency audits performed prior to the completion of rule-making must meet the Level I audit standard.

(C) An energy efficiency audit of the entire building for work implemented under the San Francisco Energy Watch program, or

(D) Other comprehensive energy efficiency audit of the entire building, subject to approval by the Director.

SEC. 2005. CONFIDENTIALITY.

(a) Consistent with the provisions of this Section and to the extent permitted by law, the

Department of the Environment shall maintain the confidentiality of any information submitted by

building owners under this Chapter, where the owner has informed the Department in writing within 15

business days of the submittal of such information that the information is confidential business

information of the owner or of a building tenant. Lists of cost-effective energy efficiency measures as

well as associated estimated costs and benefits for individual buildings shall be presumed confidential,

unless otherwise indicated in writing by the building owner or it can be demonstrated that the

information is already available to the public.

(b) The owner shall not be required by this Chapter to disclose to third parties or the public confidential business information of the owner or individual tenants. However, the following limited summary information is not to be considered confidential:

(1) Confirmation that the nonresidential building is in compliance with this chapter,

Chapter 20 of the San Francisco Environment Code;

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(2)	The minimum ASHR	AE audit level requi	ired in an ener	gy efficiency	audit of the
building, and the m	ost recent date wher	ı an energy efficienc	y audit meetin	g the relevan	t standard was
completed; and,	* .				

- (3) Aggregate annual summary statistics for a whole building, including annual average energy use intensity, ENERGY STAR® Portfolio Manager Energy Performance Ratings, California nonresidential energy performance ratings, and annual carbon dioxide emissions attributable to energy use in the building.
- (c) If a building owner believes that any information required to be reported or disclosed by this Chapter includes confidential business information, the owner shall provide the information to the Director and shall notify the Director in writing of that belief, detailing the basis of the belief as to each specific item of information the person claims is confidential business information. For purposes of this Chapter, "confidential business information" shall have the same meaning as "trade secret" under California Civil Code Section 3426.1, as amended. The owner designating information as confidential business information shall also provide the Director with a name and street address for notification purposes and shall be responsible for updating such information. The Director shall not disclose any properly substantiated confidential business information which is so designated by an owner except as required by this Chapter or as otherwise required by law.
- (d) Information designated as confidential business information may be disclosed to an officer or employee of the City and County of San Francisco, the State of California, or the United States of America for use in connection with the official duties of such officer or employee acting under authority of law, without liability on the part of the City.
- (e) When the Director or other City official or employee receives a request for information that has been designated as, or which the City determines may be, confidential business information, the City shall notify the building owner of the request. The City may request further evidence or explanation from the owner as to why the information requested is confidential business information. If

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the City determines that the information does not constitute confidential business information, the City shall notify the owner of that conclusion and that the information will be released by a specified date in order to provide the owner the opportunity to obtain a court order prohibiting disclosure.

(f) In adopting this Chapter, the Board of Supervisors does not intend to authorize or require the disclosure to the public of any confidential business information protected under the laws of the State of California.

(g) This Section is not intended to empower a person or business to refuse to disclose any information, including but not limited to confidential business information, to the Director as required under this Chapter.

(h) Notwithstanding any other provision of this Chapter, any officer or employee of the City and County of San Francisco, or former officer or employee or contractor with the City or employee thereof, who by virtue of such employment of official position has obtained possession or has had access to information, the disclosure of which is prohibited by this Section, and who, knowing that disclosure of the information is prohibited, knowingly and willfully discloses the information in any manner to any person or business not entitled to receive it, shall be guilty of a misdemeanor.

SEC. 2006. MUNICIPAL FACILITIES.

(a) The General Manager of the Public Utilities Commission (PUC) may elect to develop a compliance plan for municipally owned buildings greater than 10,000 square feet, on or before July 1, 2011. The goal of a compliance plan shall be to apply the results of energy audits and benchmarking to prioritize the implementation of energy efficiency upgrades in municipal buildings and to maximize energy savings. The compliance plan shall constitute the entirety of regulatory compliance with this Chapter for municipal buildings and shall include all of the following:

(1) Consultation with City Departments. The compliance plan shall be developed in consultation with relevant City departments including the Department of the Environment, the

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Department of Real Estate and the Capital Planning Committee established in Administrative Code

Section 3.21, so as to leverage existing energy data collection processes;

- (2) Benchmarking tools applicable to municipal building types. Benchmarking shall include, but is not limited to, information substantially equivalent to the Energy Benchmark

 Information in Section 2003(a)(2) as determined by the General Manager of the Public Utilities

 Commission. For the purpose of benchmarking municipally owned buildings greater than 10,000 square feet, each City department head or agency general manager shall provide to the General

 Manager of the Public Utilities Commission the data required by the compliance plan for all municipal buildings under the respective department or agency jurisdiction. Benchmarking municipal facilities shall be completed according to the compliance schedule in Section 2004(a);
 - (3) Energy audit protocols;
 - (4) Reporting protocols; and,
 - (5) A timeline for compliance with energy audit requirements.
- (b) If a compliance plan for municipally owned buildings is not developed and implementation initiated pursuant to paragraph (a), each City department head or agency general manager shall be responsible for compliance with the provisions of this Chapter for all municipally owned buildings under the respective department or agency jurisdiction.

SEC. 2007. IMPLEMENTATION.

- (a) The Director may adopt rules and regulations for the implementation of this Chapter, including rules for the electronic submittal of Annual Energy Benchmark Summary Reports and Confirmations of Energy Efficient Audits, as well as verification that the Department has received an Annual Energy Benchmark Summary or Confirmation of Energy Efficient Audit.
 - (b) The Director may modify or suspend the requirements of this Chapter if:

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for submittal of an Energy Benchmark Summary. Buildings in financial distress at the time an Energy

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BOARD OF SUPERVISORS

fails to file an AEBS report for 30 days or more after the relevant deac	lline, the Director shall indicate
that building's compliance status via the publicly accessible electronic	c reporting interface. If 45 days
after issuing a written warning of violation from the Director, the Dire	ector finds that building owner
continues to violate any provisions of this Chapter, the Director may i	
provided in this Section.	

- (b) Administrative Fines. Violations of the provisions of this Chapter, or of any regulations issued by the Director pursuant to Section 2007, may be punished by administrative fines as follows:
- (1) For buildings of 50,000 square feet and greater, up to \$100.00 per day for a maximum of 25 days in one twelve-month period for each building in violation.
- (2) For buildings of 49,999 square feet or less, up to \$50.00 per day for a maximum of 25 days in one twelve-month period for each building in violation.

Except as to the amount of administrative fines, set forth above, Administrative Code

Chapter 100, "Procedures Governing the Imposition of Administrative Fines," as may be amended from time to time, is hereby incorporated in its entirety and shall govern the imposition, enforcement, collection, and review of administrative citations issued by the Department of the Environment to enforce this Chapter and any rule or regulation adopted pursuant to this Chapter.

- (c) Use of Proceeds. Administrative fine collected under subsection (b) shall be used to fund implementation and enforcement of this Chapter.
 - (d) This Section shall not apply to the City or to any municipally owned buildings.

Section 4. Additional Provisions.

(a) General Welfare. In adopting and implementing this Chapter, the City and County of San Francisco is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it

is liable in money damages to any building owner who claims that such breach proximately caused injury.

- (b) Conflict with State or Federal Law. This Chapter shall be construed so as not to conflict with applicable federal or State laws, rules or regulations. Nothing in this Chapter shall authorize any City agency or department to impose any duties or obligations in conflict with limitations on municipal authority established by State or federal law at the time such agency or department action is taken.
- (c) Severability. If any of the provisions of this Chapter or the application thereof to any building owner or circumstance is held invalid, the remainder of those provisions, including the application of such part or provisions to building owners or circumstances other than those to which it is held invalid, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this Chapter are severable.

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

By:

THOMAS J. OWEN Deputy City Attorney

LEGISLATIVE DIGEST (rev.) (As amended in committee, 12/13/2010)

[Environment Code - Existing Commercial Buildings Energy Performance]

Ordinance amending the San Francisco Environment Code by adding Chapter 20, Sections 2000 through 2009, to adopt the San Francisco Existing Commercial Buildings Energy Performance Ordinance, requiring owners of nonresidential buildings to conduct Energy Efficiency Audits of their properties and file Annual Energy Benchmark Summaries for their buildings, and making environmental findings.

Existing Law

The City currently does not have any laws requiring energy efficiency audits or reporting for buildings.

Amendments to Current Law

The proposal would require owners of nonresidential buildings in San Francisco to obtain energy efficiency audits, as well as to annually measure and disclose energy performance. It would also require the Department of Environment to collect summary statistics about the energy performance of nonresidential buildings and make those statistics available to the public.

The proposal would require the owner of any nonresidential building in San Francisco with a gross area of 10,000 square feet or greater to conduct a comprehensive energy efficiency audit for each such building. The audits would have to meet specified industry standards and be conducted by a qualified energy professional in accordance with rules promulgated by the Director of the Department of the Environment. The size of the building would determine the scope of the audit.

The energy professional would prepare a signed report of the energy efficiency audit meeting industry standards. The report would include, among other things: a list of capital and non-capital measures that would improve the building's energy efficiency; an estimate of the approximate energy savings, avoided energy cost, and costs to implement those measures; and an estimate of the economic value of the corrective measures. The ordinance would require the building owner to file with the Department of the Environment a report confirming that the energy efficiency audit had been completed.

Mayor Newsom, Supervisor Duffy BOARD OF SUPERVISORS

Building owners would also be required to use the "ENERGY STAR® Portfolio Manager"— the Environmental Protection Agency's online tool for managing building data—to track the total energy use of each non-residential building and obtain an "ENERGY STAR® Portfolio Manager Energy Performance Rating" for each entire nonresidential building. The owner would then file an Annual Energy Benchmark Summary report ("AEBS") for each covered building with the Department of the Environment. The AEBS would be based on an assessment of the entire non-residential building and related facilities made using Portfolio Manager.

No energy efficiency audit would be required for: (a) a building newly constructed less than five years prior to the date an AEBS was due; (b) a building that received the ENERGY STAR® label from the EPA for at least three of the last five years; or, (c) a building that was certified under the Leadership in Energy and Environmental Design (LEED) rating system for Existing Buildings Operation and Maintenance, within the past five years. Owners of financially distressed buildings could apply for extensions of the deadlines for completion of an energy efficiency audit or for submittal of an AEBS. If the same person owned three or more buildings subject to the Chapter, and the Energy Efficiency Audit due dates for more than one-third of those buildings fell within a single year, the building owner would only be required to complete audits for one-third of the buildings that year. The ordinance would not require an AEBS for an unoccupied building.

The Department of the Environment would annually report to the public summary statistics on Citywide energy use in nonresidential buildings and on overall compliance with the Chapter. For individual buildings covered by the ordinance, the department would report whether the building was in compliance with the Chapter, what level of energy audit was required for the building, the date of the most recent audit, and whole-building information on energy use and efficiency.

The ordinance would require building owners to make the Annual Energy Benchmark Summary report available to all tenants occupying the building in order to engage tenants in efforts to save energy.

The ordinance would set a staggered, 3-year schedule for compliance with the AEBS requirements, beginning October 1, 2011. The ordinance would also require the Department of the Environment to set a compliance schedule for energy efficiency audit reports. The first set of audits and reports would be phased in over a 3-year period, starting no later than 12 months after the effective date of the legislation. After that, energy efficiency audits and audit reports would be due on a rolling basis every five years.

Violations would be enforced through a system of administrative penalties, based in part on the size of the building, after written warning to the building owner.

Mayor Newsom, Supervisor Dufty BOARD OF SUPERVISORS

Page 2 12/13/2010 The ordinance would also authorize the General Manager of the San Francisco Public Utilities Commission to develop and implement an energy audit and benchmarking plan for municipally owned buildings of greater than 10,000 square feet.

There are only two significant differences between the substitute legislation on file, dated 11/23/2010, and the version as amended in committee on 12/13/2010.

First, under the substitute legislation, the energy efficiency audits and audit reports would be due after an 18-month preparation and notification period. As amended in committee, the preparation and notification period would be reduced to 12 months.

Second, under the substitute legislation, the initial set of energy efficiency audits and audit reports would be due over a 5-year period. Under the legislation as amended in committee, the initial set of energy efficiency audits and audit reports would be due over a 3-year period, and subsequent audits and reports would be due every 5 years.

BOARD of SUPERVISORS



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

September 1, 2010

File No. 101105

Bill Wycko Environmental Review Officer Planning Department 1650 Mission Street, 4th Floor San Francisco, CA 94103

Dear Mr. Wycko:

On August 10, 2010, Mayor Newsom introduced the following proposed legislation:

File No. 101105

Ordinance amending the San Francisco Environment Code by adding Chapter 20, Sections 2000 through 2008, to adopt the San Francisco Existing Commercial Buildings Energy Performance Ordinance, requiring owners of nonresidential buildings to conduct Energy Efficiency Audits of their properties and file Annual Energy Benchmark Summaries for their buildings, and making environmental findings.

The legislation is being transmitted to you for environmental review, pursuant to Planning Code Section 306.7(c).

Angela Calvillo, Clerk of the Board

AlisaComera

By: Alisa Somera, Committee Clerk

Land Use & Economic Development Committee

Attachment

 Nannie Turrell, Major Environmental Analysis Brett Bollinger, Major Environmental Analysis Non-physical per CERA Guidelines Scation 15060(200).

Approved Planning Dept. Grett Bollings

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CITY AND COUNTY OF SAN FRANCISCO GAVIN NEWSOM, MAYOR

September 17, 2010

Ms. Angela Calvillo, Clerk of the Board Board of Supervisors City Hall room 244 1 Carlton B. Goodlett Place San Francisco, CA 94102-4694

Re: File No. 101105 [Existing Commercial Buildings Energy Performance Ordinance]

Small Business Commission Recommendation: Approval

Dear Ms. Calvillo:

On September 13, 2010, the Small Business Commission heard and recommended approval of Board of Supervisors File No. 101105.

The Commission thanks the Mayor's Office and the Department of the Environment for their extensive outreach to the business community when considering and drafting this ordinance.

Sincerely,

Regina Dick-Endrizzi

Director, Office of Small Business

Wick Endenzi

cc. Supervisor Dufty

Starr Terrell, Mayor's Office

Alisa Somera, Clerk of the Economic and Land Use Committee.

SMALL BUSINESS ASSISTANCE CENTER/ SMALL BUSINESS COMMISSION
1 DR. CARLTON B. GOODLETT PLACE, ROOM 110 SAN FRANCISCO, CALIFORNIA 94102-4681
(415) 554-6408

Existing Commercial Buildings Energy Performance Ordinance Implementation Timeline

Energy Efficiency Audit - Timing based on legislation adoption

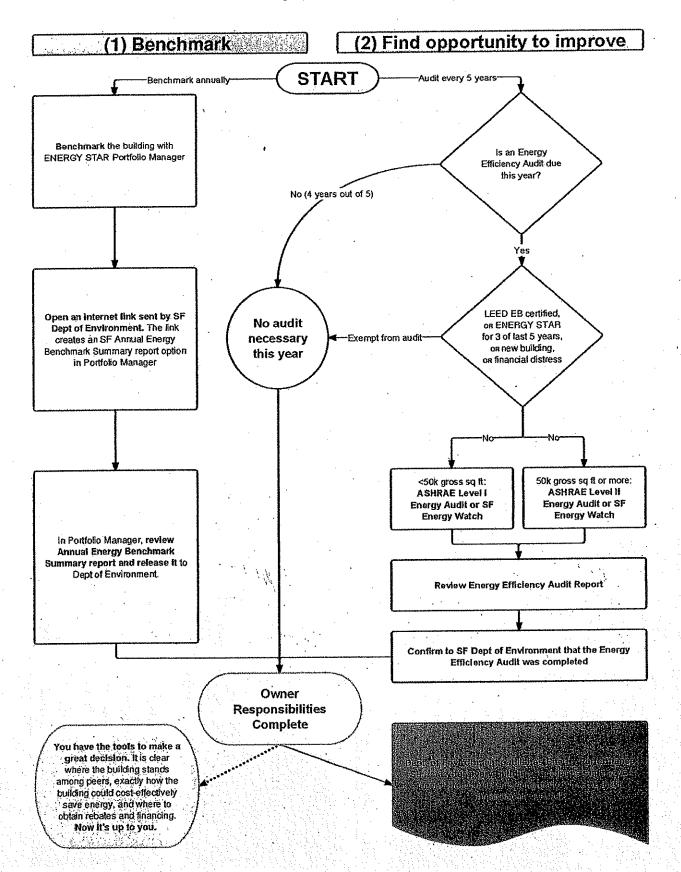
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	Up to 120 Days after Approval	Notification and preparation period	Year 1 (begins at end of prior period)	Year 2	Year 3	Year 4	Year 5	Year 6
Final/ Substitute Ordinance Nov 23	Deptiof Environment notify building establishes 5 year owners of rolling deadline, and notifies all prepare data building owners of collection and energy efficiency enforcement systems.	period to	33% of buildings must get an energy audit. [Audits due April 1, 2012 if ordinance adopted Jan 2010]	Deadline for Deadline for second 33% third 33% of obtain an 100% of energy buildings >10 efficiency sq.ft have audit clear plan for [April 1, 2013] saving energy		No audits required [April 1, 2015]	No audits required Fapril 1, 2016]	First 20% complete a new energy efficiency audit, identifying remaining costeffective opportunities to save

Benchmarking, Incentives, Financing, Education - Date Certain

Supplemental Actions - Not in ordinance

Continue to provide SF Energy Watch and related energy efficiency programs Pursue state and federal funding for efficiency Provide capital through financing mechanisms; such as Green Finance SF	Promote efficiency with contests, incentives, and social marketing. Coordinate with workforce education.
Provide Incentives	Training and Promotion

Overview of Existing Commercial Buildings Energy Performance Ordinance From The Perspective Of A Building Owner



Steven M. Sacks California Green Building Blog www.californiagreenbuildingblog.com

steve@californiagreenbuildingblog.com

Phone: 415-412-2928

January 24, 2011

To The Land Use And Development Committee:

I respectfully submit the following letter for your review.

Congratulations on your additions to the proposed Commercial Buildings Energy Performance Ordinance. I support this proposed legislation. There are three areas that would make the legislation even better. Please consider the following prior to your submission of this legislation to the Board of Supervisors.

First, the ordinance requires that the Department of Environment compare the AEBS from similar buildings. This appears inequitable, as different tenants will have different energy usage. For example, a building that houses numerous data centers (energy intensive industry) will appear more inefficient next to an identical building that has a tenant with low energy use (e.g. a library or document depository). This discrepancy can be addressed by the Department of Environment following implementation of the ordinance, but it needs to be addressed.

Second, the ordinance allows exemptions to the audit requirement for buildings that meet Energy Star or LEED Existing Buildings Operations and Maintenance (among other qualifications). Specifically and narrowly referencing these benchmarks for exemptions is unnecessary. The third party certifications can be used in the statute so long as a clause is added stating something to the effect of "so long as these standards meet the minimum requirements set by the Department of Environment." A similar equivocating clause is already used in the proposed ordinances' references to ASHRAE.

Third, the available fines for non-compliance do not seem equitable. Smaller buildings pay half of larger buildings, but the larger buildings are likely far more than twice the size of a small building. Further, I'm guessing the energy audits for larger buildings cost more than \$2,500 (the maximum annual amount). A large building owner can just pay the fine, and pocket the savings. A fine based on a sliding scale that increases the fine \$100 for every 25,000 square feet above 100,000 square feet would be more equitable.

Thank you very much for considering these comments.

Very truly yours,

Steven M. Sacks



Item 2: Land Use - Time line for Existing Commercial Buildings Energy Performance Rob Black

to:

David Chiu 12/13/2010 11:05 AM

Cc:

sophie.maxwell, eric.mar, Johanna.Partin, alisa.somera, judson.true Show Details

RE: Existing Commercial Buildings Energy Performance

Hon. Supervisor Chiu,

I am writing to request that you allow the current timeline for Existing Commercial Buildings Energy Performance implementation to stay the same. As the first major Chamber in California to support AB 32, the California Global Warming Solutions Act, the San Francisco Chamber of Commerce believes that it is essential that business be part of the solution to global warming. We also believe this can be accomplished by working with business to align interests with broader environmental and efficiency concerns.

During the drafting of this measure, the business community worked closely with the city to put forward a measure that effectively balances administrative concerns with an effective policy that would help lower green-house gas emissions and reduce energy consumption. Part of the balance was making sure that we did not negatively impact state incentives for energy audits or retrofits, especially for smaller property owners, while still pursing important policy actions. We believe that the current timeline allows for sufficient financial planning for small and medium sized building owners as well as access to state energy audit resources. We are concerned that a condensed time line encompassing so many buildings at once would limit access to state energy audit funds and drive up the costs of audits significantly.

The thoughtful, interactive partnership that the city sought on this legislation helped create a strong base of support and helps build a deeper understanding within the business community that we can both build our economy and move towards a more efficient energy future together.

Thank you for your continued leadership on energy efficiency issues and we look forward to working with you in the coming years. If you have any questions, please feel free to contact me at 415-352-8844.

Sincerely,

Rob Black
Vice President, Public Policy
San Francisco Chamber of Commerce
Home of the World Champion San Francisco Giants!!
235 Montgomery St., 12th Floor
San Francisco, CA 94104-2803
415-352-8844 Direct, 415-392-0485 Fax
rblack@sfchamber.com

Connect with the Chamber on Facebook | Twitter | LinkedIn