SAW:BCK:WFC:CAG
11/9/2026

DRAFT

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING CHAPTER 17.85 (CITY OF SAN JOSE ENERGY AND WATER BUILDING PERFORMANCE) OF TITLE 17 OF THE SAN JOSE MUNICIPAL CODE TO: (1) REMOVE THE EXCLUSIVELY INDUSTRIAL LAND USE ZONING DESIGNATION EXEMPTION FOR LARGE ENERGY PROJECTS; (2) REQUIRE LARGE ENERGY PROJECTS WITH A CLOSED-LOOP WATER COOLING SYSTEM TO GET THIRD-PARTY VERIFICATION; (3) REQUIRE AN AUDIT AND IMPLEMENTATION OF EFFICIENCY IMPROVEMENTS; (4) AND UPDATE DEFINITIONS AND MAKE OTHER CONFORMING REVISIONS

WHEREAS, City is establishing uniform standards and best practices for “Large Energy Projects”, as defined in Title 20 “Zoning” of the San José Municipal Code at Section 20.200.603; and

WHEREAS, City’s San José Energy and Water Building Performance Ordinance (“BPO”), as set forth in Chapter 17.85 of Title 17, requires consistent updates to ensure Large Energy Projects are included in the BPO and are meeting energy and water performance metrics; and

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the Director of Planning, Building and Code Enforcement has determined that the provisions of this Ordinance do not constitute a project, under File No. PP17-008 (General Procedure & Policy Making resulting in no changes to the physical environment); and

WHEREAS, independently and in the alternative, approval of this Ordinance is exempt from CEQA under:

(a) CEQA Guidelines Section 15061(b)(3) (common sense exemption), because it can be seen with certainty that there is no possibility that the Policy may have a significant effect on the environment;

(b) CEQA Guidelines Section 15307 (Class 7, Actions by Regulatory Agencies for Protection of Natural Resources), because the Policy establishes standards to protect water supply and water quality; and

(c) CEQA Guidelines Section 15308 (Class 8, Actions by Regulatory Agencies for Protection of the Environment), because the Policy establishes standards to protect air quality, reduce noise, and limit energy and water use, and does not relax any existing environmental standard; and none of the exceptions in CEQA Guidelines Section 15300.2 applies; and

WHEREAS, the City Council of the City of San José is the decision-making body for this Ordinance; and

WHEREAS, this Council has reviewed and considered the determination under CEQA prior to taking any approval actions on this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Section 17.85.200 of Chapter 17.85 of Title 17 of the San José Municipal Code is amended to read as follows:

17.85.200 Definitions

The definitions set forth in this Part shall govern the application and interpretation of this Chapter.

A. Audit

"Audit" means a systematic evaluation process to identify modifications and improvements of the Base Building Systems, including, but not limited to, alterations of such systems and the installation of new equipment, insulation or other generally recognized Energy and water efficiency technologies to optimize Energy and water use performance of the building and achieve Energy and water savings.

B. Audit Report

"Audit Report" means the final document produced by a Qualified Auditor including but not limited to:

1. The summary audit report;

2. An assessment of how the major Energy and water consuming equipment and systems used within tenant spaces impact the Energy and water consumption of the Base Building Systems based on a representative sample of spaces as determined by the Director of the Department; and

3. Narratives, photographs and any additional explanatory information as required to describe the results of the Audit.

C. Base Building Systems

"Base Building Systems" means the systems and subsystems of a building that use or distribute Energy or water or impact the Energy or water consumption, including the building envelope; the heating, ventilating and air conditioning

(HVAC) systems; air conveying systems; electrical and lighting systems; domestic hot water systems; water distribution systems; plumbing fixtures and other water-using equipment; and landscape irrigation systems and water features. Base Building Systems shall not include:

1. Systems or subsystems owned by a tenant or for which a tenant bears full maintenance responsibility, that are within the tenant's leased space and exclusively serve such leased space, and for which the tenant pays all the Energy and water bills according to usage and demand as measured by a meter or sub-meter;

2. Systems or subsystems owned by a residential unit Owner that exclusively serve the residential unit of that Owner; or

3. Systems or subsystems that operate industrial applications such as manufacturing.

D. Baseline Year

"Baseline Year" means a Covered Property's first year submitting a Benchmarking Report, the most recent Performance Verification Report or verification of improvement pathway (as applicable), whichever is later.

E. Benchmark

"Benchmark" means to input and submit the total Energy and water consumed for a Property for the previous calendar year and other descriptive information for such Property as required by the Benchmarking Tool. Total Energy and water consumption shall not include separately metered uses, such as separately metered solar panels or electric vehicle charging stations, that are not integral to building operations, as determined by the Director of the Department.

F. Benchmarking Tool

"Benchmarking Tool" means the United States Government's ~~U.S. Environmental Protection Agency's ("US EPA")~~ ENERGY STAR® Portfolio Manager, or any additional or alternative tool adopted by the Director of the Department, used to track and assess the Energy and water use of certain properties relative to similar properties.

G. Benchmarking Report

"Benchmarking Report" means a report, generated by ENERGY STAR® Portfolio Manager, summarizing the annual Energy and water performance of a building.

H. CEQA ~~Covered Property~~

"CEQA" has the same definition as used in Title 21 of this Code.

~~"Covered Property" means any Property that has (1) no residential utility accounts; or (2) five (5) or more active utility accounts of one (1) utility type, at lease one (1) of which is residential.~~

I. CEQA Report ~~Department~~

"CEQA Report" means any report required by the City under Title 21 of the San José Municipal Code.

~~"Department means the City of San José Energy Department.~~

J. Closed-Loop Water Cooling System ~~Energy~~

"Closed-Loop Water Cooling System" means a system that circulates water within a closed loop, continuously moving through the system and undergoing cooling processes before being reused.

~~"Energy" means electricity, natural gas, steam, heating oil, or other products sold by a utility to a customer of a building, or renewable on-site electricity generation,~~

~~for purposes of providing heat, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities.~~

K. **Covered Property** ~~**Energy Audit**~~

"Covered Property" means any Property that has (1) no residential utility accounts; or (2) five (5) or more active utility accounts of one (1) utility type, at least one (1) of which is residential.

~~"Energy Audit" means that part of an Audit that addresses the Energy systems.~~

L. **Department** ~~**Energy Use Intensity**~~

"Department" means the City of San José Energy Department.

~~"Energy Use Intensity" means the Energy consumed per square foot of a building per year, as calculated by ENERGY STAR® Portfolio Manager by dividing the total Energy consumed by the building in one (1) year (measured in kBtu or GJ) by the total gross floor area of the building.~~

M. **Energy** ~~**ENERGY STAR® Certified**~~

"Energy" means electricity, natural gas, steam, heating oil, or other products sold by a utility to a customer of a building, or renewable on-site electricity generation, for purposes of providing heat, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities.

~~"ENERGY STAR® Certified" means a building which has earned an ENERGY STAR® Score of 75 or higher, indicating that it performs better than at least seventy-five percent (75%) of similar buildings nationwide.~~

N. **Energy Audit** ~~**ENERGY STAR® Portfolio Manager**~~

"Energy Audit" means that part of an Audit that addresses the Energy systems.

~~"ENERGY STAR® Portfolio Manager" means the US EPA's online tool for~~

Text in italicized red font distinguishes new language in moved defined terms in Section 17.85.200.
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~~measuring, tracking, and managing a building's Energy, water and greenhouse gas emission data and to Benchmark the performance of a building.~~

O. Energy Use Intensity ~~ENERGY STAR® Score~~

"Energy Use Intensity" means the Energy consumed per square foot of a building per year, as calculated by ENERGY STAR® Portfolio Manager by dividing the total Energy consumed by the building in one (1) year (measured in kBtu or GJ) by the total gross floor area of the building.

~~"ENERGY STAR® Score" means a number ranging from 1 to 100 assigned by the US EPA's ENERGY STAR® Portfolio Manager as a measurement of a building's Energy efficiency, normalized for a building's characteristics, operations, and weather, according to methods established by US EPA's ENERGY STAR® Portfolio Manager.~~

P. ENERGY STAR® Certified ~~Financial Distress~~

"ENERGY STAR® Certified" means a building which has earned an ENERGY STAR® Score of 75 or higher, indicating that it performs better than at least seventy-five percent (75%) of similar buildings nationwide.

~~"Financial Distress" means that a Property: 1.Had arrears of property taxes or water or wastewater charges that resulted in the Property's inclusion, within the prior two (2) years, on the City's annual tax lien sale list; or 2.Has a court appointed receiver in control of the asset due to Financial Distress; or 3.Is owned by a financial institution through default by the borrower; or 4.Has been acquired by a deed in lieu of foreclosure; or 5.Has a senior mortgage subject to a notice of default.~~

Q. ENERGY STAR® Portfolio Manager ~~Nonresidential Building~~

"ENERGY STAR® Portfolio Manager" means the ~~US EPA's~~ *United States*

Government's online tool for measuring, tracking, and managing a building's Energy, water and greenhouse gas emission data and to Benchmark the performance of a building.

~~"Nonresidential Building" means a building with a land use zoning designation other than Residential, or any legal non-conforming non-Residential use, with at least twenty thousand (20,000) square feet of gross area, or a group of buildings as designated by Department as an appropriate reporting unit. A Property with a land use zoning designation that is exclusively industrial is excluded from this Chapter.~~

R. ENERGY STAR® Score ~~Owner~~

"ENERGY STAR® Score" means a number ranging from 1 to 100 assigned by the ~~US~~ EPA's *United States Government's* ENERGY STAR® Portfolio Manager as a measurement of a building's Energy efficiency, normalized for a building's characteristics, operations, and weather, according to methods established by ~~US~~ EPA's ENERGY STAR® Portfolio Manager. ~~"Owner" means any of the following: 1. An individual or entity possessing title to a property; 2. The board of directors, in the case of a cooperative apartment corporation; or 3. An agent authorized to act on behalf of any of the above.~~

S. Financial Distress ~~Property~~

"Financial Distress" means that a Property:

1. Had arrears of property taxes or water or wastewater charges that resulted in the Property's inclusion, within the prior two (2) years, on the City's annual tax lien sale list; or

2. Has a court appointed receiver in control of the asset due to Financial Distress; or

3. Is owned by a financial institution through default by the borrower; or

4. Has been acquired by a deed in lieu of foreclosure; or

5. Has a senior mortgage subject to a notice of default.

~~"Property" means any of the following: 1.A single building, or a portion of a building which is separately owned and metered; 2.A campus of two (2) or more buildings which are owned and operated by the same party, have a single shared primary function, and are: a.Behind a common utility meter or served by a common mechanical/electrical system (such as a chilled water loop) which would prevent the Owner from being able to easily determine the Energy use attributable to each of the individual buildings; or b.Used primarily for one (1) of the following functions: i.Privately-owned hospital; ii.Hotel; iii.Multifamily housing; or iv.Senior care community.~~

T. Large Energy Project ~~Qualified Auditor~~

"Large Energy Project" has the same definition as used in Title 20 of this Code.

~~"Qualified Auditor" means an individual whose job duties do not regularly occur at the Property and who possesses such qualifications as determined by the Director of the Department to perform or directly supervise individuals performing Audits, and to certify Audit Reports required by this Ordinance. The Qualified Auditor can be an employee or contractor hired by the reporting entity, an employee of a utility, or a third-party service provider and must have two (2) or more years of auditing experience and possesses one (1) or more of the following certifications: 1. An accredited certification that has been designated a "Better Buildings Recognized Program" by the U.S. Department of Energy ("DOE") meeting the criteria set forth in the Better Buildings Workforce Guidelines (BBWG) for Building Energy Auditors or Energy Managers; 2. A Professional Engineer (PE) registered~~

Commented [RT1]: There should not be a separate definition here if it is already defined in Title 20. Instead it should say, Large Energy Project is as defined under Section ????

~~in the State of California; 3. Certified Energy Auditor (CEA) or Certified Energy Manager (CEM), issued by the Association of Energy Engineers (AEE); 4. Certified Facilities Manager (CFM), issued by the International Facility Management Association (IFMA); 5. System Maintenance Administrator (SMA) or System Maintenance Technician (SMT), issued by Building Owners and Managers Institute (BOMI) International; 6. High Performance Building Design Professional (HBPD) or Building Energy Assessment Professional (BEAP), issued by the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE); 7. For Audits of multifamily residential buildings only, a Multifamily Building Analyst (MFBA), issued by the Building Performance Institute (BPI); or 8. Additional qualified certifications as the Director of the Department deems appropriate. After the establishment of a DOE-recognized standard for a water auditor, the Director of the Department may adopt the qualifications of the DOE-recognized standard with modifications as the Director of the Department deems to be appropriate.~~

U. Nonresidential Building ~~Qualified Retro-Commissioning Professional~~

"Nonresidential Building" means a building with a land use zoning designation other than Residential, or any legal non-conforming non-Residential use, with at least twenty thousand (20,000) square feet of gross area, or a group of buildings as designated by Department as an appropriate reporting unit. A Property with a land use zoning designation of Industrial under San José Municipal Code Chapter 20.50 ~~that is exclusively industrial~~ is excluded from this Chapter. *Notwithstanding the above, the ~~exclusively industrial land use zoning designation~~ exclusion of any Property with a land use zoning designation of Industrial under San José Municipal Code Chapter 20.50 from this Chapter shall not apply to Large Energy Projects.*

~~"Qualified Retro-Commissioning Professional" means an individual whose job duties do not regularly occur at the Property and who possesses such qualifications as determined by the Director of the Department to perform or~~

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~~directly supervise individuals performing the retuning work required by this Ordinance. The Qualified Retro-Commissioning Professional can be an employee or contractor hired by the reporting entity, an employee of a utility, or a third-party service provider who has two (2) or more years of commissioning or retuning experience and possesses one (1) or more of the following certifications: 1. An accredited certification that has been designated a "Better Buildings Recognized Program" by the Department of Energy meeting the criteria set forth in the Better Buildings Workforce Guidelines (BBWG) for Building Commissioning Professionals; 2. A Professional Engineer (PE) registered in the State of California; 3. Certified Commissioning Professional (CCP), issued by the Building Commissioning Association (BCA); 4. Certified Commissioning Authority (CxA) or Certified Commissioning Technician (CxT), issued by the AABC Commissioning Group (ACG); 5. Certified Building Commissioning Professional (CBCP) or Existing Building Commissioning Professional (EBCP), issued by the Association of Energy Engineers (AEE); 6. Certified Professional certified by the National Environmental Balancing Bureau (NEBB); 7. Commissioning Process Management Professional (CPMP), issued by American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE); 8. Accredited Commissioning Process Authority Professional (ACPAP) approved by the University of Wisconsin; or 9. Additional qualified certifications as the Director of the Department deems appropriate.~~

V. Owner ~~Residential Building~~

"Owner" means any of the following:

1. An individual or entity possessing title to a Property;

2. The board of directors, in the case of a cooperative apartment corporation; or

3. An agent authorized to act on behalf of any of the above.

~~"Residential Building" means a building with a land use zoning designation of Residential under San José Municipal Code Chapter 20.30, legal non-conforming Residential, where Residential use is permitted under San José Municipal Code Section 20.40.115, where Residential use is permitted under a Planned Development Permit, or any other zoning designation where the actual use is fully or partially residential in nature.~~

W. Property ~~Retro-Commissioning~~

"Property" means any of the following:

1. A single building, or a portion of a building which is separately owned and metered;

2. A campus of two (2) or more buildings which are owned and operated by the same party, have a single shared primary function, and are:

   a. Behind a common utility meter or served by a common mechanical/electrical system (such as a chilled water loop) which would prevent the Owner from being able to easily determine the Energy use attributable to each of the individual buildings; or

   b. Used primarily for one (1) of the following functions:

      i. Privately-owned hospital;

      ii. Hotel;

iii. Multifamily housing; or

iv. Senior care community.

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

X. Qualified Auditor ~~Retro-Commissioning Measures~~

"Qualified Auditor" means an individual whose job duties do not regularly occur at the Property and who possesses such qualifications as determined by the Director of the Department to perform or directly supervise individuals performing Audits, and to certify Audit Reports required by this Ordinance. The Qualified Auditor can be an employee or contractor hired by the reporting entity, an employee of a utility, or a third-party service provider and must have two (2) or more years of auditing experience and possesses one (1) or more of the following certifications:

1. An accredited certification that has been designated a "Better Buildings Recognized Program" by the U.S. Department of Energy ~~("DOE")~~ meeting the criteria set forth in the Better Buildings Workforce Guidelines (BBWG) for Building Energy Auditors or Energy Managers;

2. A Professional Engineer (PE) registered in the State of California;

3. Certified Energy Auditor (CEA) or Certified Energy Manager (CEM), issued by the Association of Energy Engineers (AEE);

4. Certified Facilities Manager (CFM), issued by the International Facility Management Association (IFMA);

5. System Maintenance Administrator (SMA) or System Maintenance Technician (SMT), issued by Building Owners and Managers Institute (BOMI) International;

6. High Performance Building Design Professional (HBPD) or Building Energy Assessment Professional (BEAP), issued by the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE);

7. For Audits of multifamily residential buildings only, a Multifamily Building Analyst (MFBA), issued by the Building Performance Institute (BPI); or

8. Additional qualified certifications as the Director of the Department deems appropriate.

After the establishment of a ~~DOE~~*Department of Energy*-recognized standard for a water auditor, the Director of the Department may adopt the qualifications of the ~~DOE~~*Department of Energy*-recognized standard with modifications as the Director of the Department deems to be appropriate.

~~"Retro-Commissioning Measures" means work relating to Retro-Commissioning such as repairs, maintenance, adjustments, changes to controls or related software, or operational improvements that optimize a building's Energy or water performance.~~

Y. **Qualified Retro-Commissioning Professional** ~~**Retro-Commissioning Report**~~

"Qualified Retro-Commissioning Professional" means an individual whose job duties do not regularly occur at the Property and who possesses such qualifications as determined by the Director of the Department to perform or directly supervise individuals performing the retuning work required by this Ordinance. The Qualified Retro-Commissioning Professional can be an employee

or contractor hired by the reporting entity, an employee of a utility, or a third-party service provider who has two (2) or more years of commissioning or retuning experience and possesses one (1) or more of the following certifications:

1. An accredited certification that has been designated a "Better Buildings Recognized Program" by the Department of Energy meeting the criteria set forth in the Better Buildings Workforce Guidelines (BBWG) for Building Commissioning Professionals;

2. A Professional Engineer (PE) registered in the State of California;

3. Certified Commissioning Professional (CCP), issued by the Building Commissioning Association (BCA);

4. Certified Commissioning Authority (CxA) or Certified Commissioning Technician (CxT), issued by the AABC Commissioning Group (ACG);

5. Certified Building Commissioning Professional (CBCP) or Existing Building Commissioning Professional (EBCP), issued by the Association of Energy Engineers (AEE);

6. Certified Professional certified by the National Environmental Balancing Bureau (NEBB);

7. Commissioning Process Management Professional (CPMP), issued by American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE);

8. Accredited Commissioning Process Authority Professional (ACPAP)

approved by the University of Wisconsin; or

9. Additional qualified certifications as the Director of the Department deems appropriate.

~~"Retro-Commissioning Report" means the report for any unmet standard that is prepared by a Qualified Retro-Commissioning Professional and provided to the Owner which includes, at a minimum, the following:~~

~~1. Summary of the work performed and overall results;~~

~~2. Energy or water end use breakdown;~~

~~3. Functional performance testing reports; and~~

~~4. Description of operational training.~~

Z. Residential Building ~~Retrofit Measures~~

"Residential Building" means a building with a land use zoning designation of Residential under San José Municipal Code Chapter 20.30, legal non-conforming Residential, where Residential use is permitted under San José Municipal Code Section 20.40.115, where Residential use is permitted under a Planned Development Permit, or any other zoning designation where the actual use is fully or partially residential in nature.

~~"Retrofit Measures" means upgrades or alterations of building systems involving the installation of Energy or water efficiency technologies that reduce Energy or water consumption and improve the efficiency of such systems.~~

AA. Retro-Commissioning ~~US EPA~~

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

~~"US EPA" means the United States Environmental Protection Agency.~~

BB. **Retro-Commissioning Measures ~~US EPA Water Score~~**

"Retro-Commissioning Measures" means work relating to Retro-Commissioning such as repairs, maintenance, adjustments, changes to controls or related software, or operational improvements that optimize a building's Energy or water performance.

~~"US EPA Water Score" means a number ranging from 1 to 100 assigned by the US EPA's the ENERGY STAR® Portfolio Manager, and available to existing multifamily properties with twenty (20) or more units, as a measurement of a whole Property's water use, normalized for that Property's characteristics, operations, and weather, according to methods established by US EPA's ENERGY STAR® Portfolio Manager.~~

CC. **Retro-Commissioning Report ~~Water Audit~~**

"Retro-Commissioning Report" means the report for any unmet standard that is prepared by a Qualified Retro-Commissioning Professional and provided to the Owner which includes, at a minimum, the following:

1. Summary of the work performed and overall results;

2. Energy or water end use breakdown;

3. Functional performance testing reports; and

4. Description of operational training.

~~"Water Audit" means that part of an Audit that addresses the water systems.~~

DD. **Retrofit Measures ~~Water Use Intensity~~**

"Retrofit Measures" means upgrades or alterations of building systems involving the installation of Energy or water efficiency technologies that reduce Energy or

water consumption and improve the efficiency of such systems.

~~"Water Use Intensity" means the water consumed per square foot of a building per year, as calculated by EPA's ENERGY STAR® Portfolio Manager by dividing all water sources by the building's net square feet excluding parking and irrigated area.~~

EE. ~~US EPA~~ Water Score

"~~US EPA~~ Water Score" means a number ranging from 1 to 100 assigned by the ~~US EPA's~~ *United States Government's* ~~US EPA's~~ ENERGY STAR® Portfolio Manager, and available to existing multifamily properties with twenty (20) or more units, as a measurement of a whole Property's water use, normalized for that Property's characteristics, operations, and weather, according to methods established by ~~US EPA's~~ ENERGY STAR® Portfolio Manager.

~~"US EPA" means the United States Environmental Protection Agency.~~

FF. Water Audit

"Water Audit" means that part of an Audit that addresses the water systems.

GG. Water Use Intensity

"Water Use Intensity" means the water consumed per square foot of a building per year, as calculated by the ~~EPA's~~ *United States Government's* ENERGY STAR® Portfolio Manager by dividing all water sources by the building's net square feet excluding parking and irrigated area.

SECTION 2. Section 17.85.300 of Chapter 17.85 of Title 17 of the San José Municipal Code is amended to read as follows:

17.85.300 Annual Energy and Water Benchmarking and Reporting

A. For every Property subject to this Chapter, the Owner shall annually collect data related to the building's Energy and water usage according to the latest guidance under Building Energy Use Data Access, Benchmarking, and Public Disclosure Regulations, California Code of Regulations, Title 20, Division 2, Chapter 4, Article 9, Section 1680, and following, including, but not limited to, those related to obtaining customer consent.

B. The Owner shall annually submit to the Department an Energy and Water Benchmarking Report according to the schedule set forth in Part 5 together with the fees as established by resolution of the Council. The Energy and Water Benchmarking Report shall be based on an assessment in the ENERGY STAR® Portfolio Manager of the total Energy and water consumed by the whole building for the entire calendar year being reported. The Energy and Water Benchmarking Report shall, at minimum, include the following:

1. Descriptive Information. Basic descriptive information to track and report a building's compliance with this Chapter, including, but not limited to, the building address, facility gross square footage, property type, and the individual or entity responsible for the Benchmarking Report.

2. Energy and Water Benchmarking Information. Information necessary to Benchmark Energy and water usage shall be determined by the Department and shall include, at a minimum, the following data:

   a. The ENERGY STAR® Portfolio Manager ENERGY STAR® Score for the building, where available;

   b. The weather-normalized site and source Energy Use Intensity (EUI) per unit area per year (kBTU per square foot per year) for the

building;

c. The site and source Energy Use Intensity (EUI) per unit area per year (kBTU per square foot per year) for the building;

d. The annual carbon dioxide equivalent emissions due to Energy use for the building as estimated by ENERGY STAR® Portfolio Manager;

e. The ~~US EPA~~ Water Score for the building, where available;

f. Indoor water use, indoor water intensity, outdoor water use (when available), and total water use; and

g. Number of years the building has been ENERGY STAR® Certified and the last approval date, if applicable.

C. An Owner of a Large Energy Project, with a Closed-Loop Water Cooling System, shall annually provide documentation signed by a Qualified Auditor or Qualified Retro-Commissioning Professional that the Property's operating Closed-Loop Water Cooling System does not exceed ten percent (10%) water loss in the previous calendar year.

D. Nothing in this Chapter permits an Owner to use tenant utility usage data for purposes other than compliance with Benchmarking Report requirements. The reporting requirements of this Chapter are in addition to any federal or state laws governing direct access to, and publication of, tenant utility data.

SECTION 3. Section 17.85.400 of Chapter 17.85 of Title 17 of the San José Municipal

Code is amended to read as follows:

17.85.400 Performance Standards for Energy and Water Efficiency

A. An Owner shall establish a Property's satisfactory Energy and water efficiency by either providing verification of satisfactory Property performance under Section 17.85.410, or, if a Property does not meet such performance standards, through either performing an Energy or Water Audit, Retro-Commissioning, or completing Energy and water efficiency improvement measures and providing verification of such under Section 17.85.420, et seq.

B. An Owner of a Covered Property shall provide verification of compliance with this Chapter within the time schedule as listed in Part 5.

C. An Owner of a Large Energy Project shall provide documentation signed by a Qualified Auditor or Qualified Retro-Commissioning Professional that the Property Energy and water usage is less than ten percent (10%) higher than the estimates that have been reviewed and approved by the City for the Large Energy Project in its CEQA Report.

1. If the Property Energy or water usage is ten percent (10%) or more higher than the estimates that have been reviewed and approved by the City for the Large Energy Project in its CEQA Report, the Owner must have an Energy Audit or Water Audit conducted by a Qualified Auditor and implement the recommendations found in the Energy Audit or Water Audit to lower Energy or water usage in alignment with the CEQA Report, and supplemental CEQA review may be needed.

SECTION 3. Section 17.85.410 of Chapter 17.85 of Title 17 of the San José Municipal

Code is amended to read as follows:

17.85.410 Performance Path: Properties Which Are Highly Efficient Or Have Demonstrated Increased Efficiency

An Owner may establish satisfactory Energy and water efficiency by providing a Performance Verification Report to the Department in such a form as required by the Director of the Department that demonstrates the following:

A. The Property is new and has been occupied for less than five (5) years from its first compliance due date, based on its Temporary Certificate of Occupancy or Certificate of Occupancy; or

B. The Property has achieved one (1) or more of the Energy standards and one (1) or more of the water standards as set forth below for at least two (2) of the three (3) calendar years preceding the Property's compliance due date in Part 5:

1. Energy Standards: The Property has a current Leadership in Energy and Environmental Design (LEED™) Existing Buildings Operations and Maintenance v4 Certification; or a California licensed engineer or architect, or Qualified Auditor or Retro-Commissioning Professional certified at least at least one (1) of the following:

a. The Property has received an ENERGY STAR® Score of 75 or greater ~~from the US EPA~~; or

b. The Property has improved its ENERGY STAR® Score by fifteen (15) points or more relative to its performance during the baseline year; or

c. The Property has a weather normalized site Energy Use Intensity as calculated by the Benchmarking Tool that is twenty-five percent (25%) below the calculated mean for that property type; or

d. The Property has reduced its weather normalized site Energy Use Intensity by at least fifteen percent (15%) relative to its performance during the baseline year.

2. Water Standards: A California licensed engineer or architect, or Qualified Auditor or Retro-Commissioning Professional certified at least one (1) of the following:

a. The building has received a ~~US EPA~~ Water Score of 75 ~~from the US EPA~~;

b. The Property has improved its ~~US EPA~~ Water Score by fifteen (15) points or more relative to its performance during the baseline year;

c. The Property has a Water Use Intensity as calculated by the Benchmarking Tool that is twenty-five percent (25%) below the locally calculated mean for that property type; or

d. The Property has reduced its Water Use Intensity by at least ten~~fifteen~~ percent (10~~5~~%) relative to its performance during the baseline year.

C. If a Property has achieved both Energy and water standards, the Owner is only required to submit a Performance Verification Report for that reporting year. If the

Property only meets one (1) of the standards, the Owner shall submit a Performance Verification Report for the satisfactory standard and shall comply with this Chapter by completing one (1) of three (3) improvement pathway options for the unmet standard.

SECTION 4. Section 17.85.420 of Chapter 17.85 of Title 17 of the San José Municipal Code is amended to read as follows:

17.85.420 Improvement Pathways: Properties Requiring Additional Energy or Water Efficiency

If a Property does not meet performance standards set forth in Section 17.85.400 above, an Owner shall meet the requirements of this Chapter through one (1) of three (3) alternative means:

(1) Conducting an Audit;

(2) Performing Retro-Commissioning; or

(3) Adopting Efficiency Improvement Measures.

A. Improvement Pathway 1: Audit

An Owner may comply with the requirements of this Chapter by conducting an Audit by a Qualified Auditor for any unmet Energy or water standard and submitting an Audit Report within the time set forth in Part 5.

1. Audit Requirements: An Owner may comply with the requirements of this Chapter by performing an Audit by a Qualified Auditor as verified in an Audit Report. Such Audit shall comply with the following:

   a. Energy Audit: The Energy Audit required by this Chapter shall meet or exceed the following:

      i. Level 2 Audit standards in conformance with the American Society of Heating Refrigerating and Air-Conditioning Engineers ("ASHRAE") *Standard 211-2018: Standard for Commercial Building Energy Audits* (latest edition at the time the Audit is initiated); or

      ii. An Energy assessment or Audit offered by the utilities serving the Property, provided that the potential savings opportunities related to all Energy sources are evaluated.

   b. Water Audit: The Water Audit required by this Chapter shall be performed in accordance with industry standard practices. Until such time as a third party verifiable water auditing process is developed and endorsed by a professional building association, governmental entity, or academic institution, and as approved by the Director of the Department, Water Audit of the Base Building Systems shall include, at a minimum, the following:

      i. Potable water distribution systems;

      ii. Landscape irrigation systems;

iii. Water reuse systems; and

iv. Water features.

2. Audit Report: A report of the Audit, completed and signed by Qualified Auditor, shall be submitted to the City and maintained by the Owner as required in Section 17.85.500. The report shall meet the requirements of Section 17.85.410 and shall include, at a minimum, the following:

a. The date(s) that the Audit was performed;

b. Identifying information on the auditor;

c. Information on the Base Building Systems and equipment;

d. A list of all Retrofit Measures that can reduce Energy or Water use, or cost of operating the Property, costs of each measure, and an estimate of the Energy and/or Water savings associated with each measure;

e. Acknowledgment that an ASHRAE Level 2, or alternate approved assessment or audit was conducted; and

f. Identification of existing electric vehicle charging stations, equipment, and infrastructure, as defined in Article 625 of the California Electric Code, including:

i. Number of existing electrical charging stations; and

ii. Number of "EV Capable" parking spaces as defined in California Green Building Standards (CalGreen) Sections 5.106.5.3.3 (Non-residential) and 4.106.4.2 (Residential) or as thereafter amended; or if no "EV Capable" parking spaces are present, number of 40-ampere minimum branch circuit capacity within the nearest circuit panel to existing parking spaces.

B. Improvement Pathway 2: Retro-Commissioning

An Owner may comply with the requirements of this Chapter by performing Retro-Commissioning under the direct supervision of a Qualified Retro-Commissioning Professional for any unmet Energy or water standard and submitting a Retro-Commissioning Report within the time set forth in Part 5. Such Retro-Commissioning shall comply with the following:

1. Energy Retro-Commissioning. Energy Retro-Commissioning shall be performed in accordance with industry standard practices, including ASHRAE Guideline 0.2, Commissioning Process for Existing Systems and Assemblies, and other standards as may be defined by the Director of the Department.

   a. The Retro-Commissioning of the Base Building Systems shall ensure that all systems are maintained, cleaned and repaired, HVAC temperature and humidity set points and setbacks are appropriate, operating schedules reflect major space occupancy patterns and the current facility requirements, and that all operating parameters are adjusted to achieve efficient operations; and

b. The Retro-Commissioning shall include, at minimum, the following:

i. Heating, ventilation, air conditioning (HVAC) systems and controls;

ii. Indoor lighting systems and controls;

iii. Water heating systems; and

iv. Renewable Energy system.

2. Water Retro-Commissioning: Water Retro-Commissioning shall be performed in accordance with industry standard practices, such as ASHRAE Guideline 0.2, Commissioning Process for Existing Systems and Assemblies, or other standards as may be defined by the Director of the Department. The Retro-Commissioning of the Base Building Systems shall include, at minimum, the following:

a. Potable water distribution systems;

b. Landscape Irrigation Systems;

c. Water Reuse Systems; and

d. Water Features.

3. Retro-Commissioning Report: A Retro-Commissioning Report, completed and signed by a Qualified Retro-Commissioning Professional, shall be submitted to the Department and maintained by the Owner as required in

Section 17.85.500. The report shall meet the requirements of this Chapter, and shall include, at a minimum, the following:

a. The date(s) that the Retro-Commissioning was performed;

b. Identifying information for the Retro-Commissioning provider;

c. Information on the Base Building Systems and equipment both before and after the Retro-Commissioning; and

d. All the Retro-Commissioning process activities undertaken, and Retro-Commissioning Measures completed.

C. Improvement Pathway 3: Efficiency Improvement Measures

An Owner of a Property which does not have a central cooling system may comply with the requirements of this Chapter for any unmet standard by demonstrating two (2) of the following corresponding efficiency improvement measures listed below were completed and submitting an Efficiency Improvement Measures Report within the time set forth in Part 5.

1. Energy Efficiency Improvement Measures:

a. Installation of common area and exterior lighting fixtures and lighting controls (e.g., occupancy sensors, daylight sensors, or time-based controls) in accordance with California Building Standards Code (California Code of Regulations, Title 24) requirements in effect at the time of the compliance cycle;

b. Installation of domestic hot water heater in accordance with California Building Standards Code (California Code of Regulations, Title 24) requirements in effect at the time of the compliance cycle;

c. Replacement of all refrigerators on the Property to ENERGY STAR® Certified models;

d. Replacement of all gas stoves on the Property to electric induction ~~stoves~~ranges or cooktops;

e. Replacement of all clothes washers and dryers in common laundry facilities with electric ENERGY STAR® Certified models;~~Replacement of all gas water heaters on the Property to electric heat pump or tankless water heaters;~~

f. Replacement of all gas water heaters on the Property to electric heat pump or ~~tankless~~ water heaters;~~,~~ *, including 120 -volt plug-in heat pump water heaters where electrical capacity is limited*; ~~Installation of a smart thermostat;~~

g. Installation of demand-based or temperature-modulating controls on central domestic hot water recirculation systems; ~~Installation of a solar thermal heating/cooling system;~~

h. Replacement of gas or electric resistance space heating equipment with individual electric heat pump systems, such as ductless mini-split or window-mounted heat pump units; ~~Enrollment in a Department-approved utility demand response program;~~

i. Installation of a smart thermostat; ~~Installation of insulation on all hot water pipes in accessible Property locations; or~~

j. Installation of a solar thermal heating/cooling system; ~~Participation in a Department approved Energy utility retrofit program (e.g., taken advantage of rebate or incentive programs for upgrades).~~

k. Replacement of gas pool or spa heaters with electric heat pump or solar thermal pool heating systems;

l. Air sealing and installation of insulation in attics, walls, or raised floors in accordance with California Building Standards Code (California Code of Regulations, Title 24) requirements for alterations in effect at the time of compliance cycle;

m. Replacement of all single-pane windows with windows meeting California Building Standards Code (California Code of Regulations, Title 24) requirements in effect at time of compliance cycle;

n. Installation of a cool roof meeting California Building Standards Code (California Code of Regulations, Title 24) requirements in effect at time of compliance cycle;

o. Enrollment in a Department-approved utility demand response program;

p. Installation of insulation on all hot water pipes in accessible Property locations;

q. Participation in a Department-approved Energy utility retrofit program (e.g., taken advantage of rebate or incentive programs for upgrades); or

r. Completion of an energy efficiency improvement measure that is not on the above list but is Department-approved.

2. Water Efficiency Improvement Measures

a. Installation of plumbing such that all systems on the Property are in compliance with California Building Standards Code (California Code of Regulations, Title 24) requirements in effect at the time of the compliance cycle;

b. Installation of outdoor landscaping and irrigation such that all systems on the Property are in compliance with San José Municipal Code Chapter 15.11, Water Efficient Landscape Standards for New and Rehabilitated Landscaping in effect at the time of the compliance cycle;

c. Installation of WaterSense® labeled weather-based or soil moisture-based irrigation controllers for all irrigated landscape on the Property; ~~Installation of a greywater system in accordance with California Code of Regulations, Title 24, Sections 1502.6, 1502.10.3, or as amended;~~

d. Conversion of spray irrigation to drip irrigation or other high-efficiency irrigation equipment for all irrigated landscape on the

Property;~~Installation of insulation on all hot water pipes in accessible Property locations; or~~

e. Connection of landscape irrigation or other non-potable uses to recycled water, where available;~~Participation in approved water utility retrofit program (e.g., taken advantage of rebate or incentive programs for upgrades).~~

f. Installation of a greywater system in accordance with California Code of Regulations, Title 24, Sections 1502.6, 1502.10.3, or as amended;

g. Installation of a rainwater catchment system in accordance with the California Plumbing Code (California Code of Regulations, Title 24, Part 5), as amended;

h. Installation of water submeters for all units on Property for water use tracking purposes;

i. Installation of a continuous water monitoring or leak detection system serving the Property, including automatic shutoff valves where appropriate;

j. Installation of insulation on all hot water pipes in accessible Property locations; or

k. Participation in approved water utility retrofit program (e.g., taken advantage of rebate or incentive programs for upgrades); or

l. Completion of a water efficiency improvement measure that is not on the above list but is Department-approved.

3. Efficiency Improvement Measures Report: A report of the Efficiency Improvement Measures implemented shall be submitted to the City and maintained by the Owner as required in Section 17.85.500. The report shall be submitted with sufficient supporting data including receipts or other proof of compliance and shall include, at a minimum, the following:

a. Descriptions of the measures including the date(s) that the Efficiency Improvement Measures were implemented;

b. Identifying information on the person implementing the Efficiency Improvement Measures;

c. Information on the Base Building Systems and equipment; and

d. A list of all Efficiency Improvement Measures that can reduce Energy or wWater use and the cost of operating the Property, and the costs of each measure.

SECTION 5. This ordinance shall become effective February 14, 2026.

PASSED FOR PUBLICATION of title this _____ day of _____, 2026, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
City Clerk