



# Memorandum

**TO:** TRANSPORTATION AND ENVIRONMENT COMMITTEE

**FROM:** Lori Mitchell

**SUBJECT:** Energy and Water Building Performance Ordinance Status Report

**DATE:** May 18, 2026

Approved

Date:

5/26/2026

## **RECOMMENDATION**

Accept this status report on the San José Energy and Water Building Performance Ordinance.

## **BACKGROUND**

In 2018, the San José City Council adopted the City's Energy and Water Building Performance Ordinance ("Building Performance Ordinance"), the first City policy supporting its Climate Smart San José goals to reduce greenhouse gas emissions and increase energy and water efficiency in existing buildings. The ordinance requires commercial and multi-family buildings 20,000 square feet or larger ("Covered Buildings") and City-owned buildings 15,000 square feet or larger ("Covered Buildings") to annually report energy and water usage through the Environmental Protection Agency's Energy Star Portfolio Manager®, a free online tool, by May 1 each year. Starting in 2023, a subset of Covered Buildings each year must also meet specific performance metrics every five years or choose to implement from a list of specific improvements if they fall short (known as "Beyond Benchmarking"). There are about 1,800 Covered Buildings in San José, and it is the responsibility of the property owner to comply with the Building Performance Ordinance.

The Building Performance Ordinance builds off Assembly Bill (AB) 802 (2015), implemented by the California Energy Commission. AB 802 only requires annual energy reporting and applies to buildings that are 50,000 square feet or larger. San José properties that comply with the Building Performance Ordinance do not have to also comply with AB 802. City staff share Covered Building reporting data with the California Energy Commission annually, as required by law.

Per the ordinance, the City applies a fee to Covered Buildings (currently set by the City at \$150 per year since 2018) to fund the Building Performance Ordinance

implementation – personnel, software, mailings, online map and data, and outreach costs. To date, the City’s Energy Department has one dedicated staff, as well as Energy Department and Finance Department support staff, supporting program implementation.

Based on the City’s most recent communitywide greenhouse gas emissions inventory (2024 data), the building sector is the second highest source (29 percent) of greenhouse gas emissions after transportation<sup>1</sup>. Addressing emissions from existing buildings is therefore an important component of the City’s climate strategy.

## **ANALYSIS**

The following provides an overview of the Covered Buildings compliance process, key findings from data analysis, planned next steps, and options for future consideration.

### **Covered Building Compliance Process**

Beginning in the 2019 reporting year (2018 usage data), the ordinance required Covered Buildings to share 12 months of utility data from the previous calendar year via Energy Star Portfolio Manager® to comply with the annual energy and water benchmarking reporting requirement. The ordinance does not require the use of third-party services to comply with the annual benchmarking report requirement, though the building owners may opt to hire assistance.

Beyond Benchmarking is a separate requirement to the annual benchmarking reports. Starting in the 2023 reporting year, once every five years, a subset of Covered Buildings must show that their property meets certain ordinance-defined efficiency metrics for energy and water or complete improvement actions if they do not. For example, in 2023, 215 Covered Buildings were required to demonstrate Beyond Benchmarking compliance, and they will only be required to demonstrate it again in 2028.

If a property meets the ordinance-defined efficiency metrics for energy or water, the building owner must hire a third-party licensed professional to verify the benchmarking data. If a property does not meet the efficiency metrics for energy or water, the owner complies by completing one of the following within the last five years: energy or water audit; retro-commissioning report; or implementation of two efficiency improvement measures at the property. Energy efficiency improvement measures may include upgrades such as: installing high-efficiency lighting; replacing gas appliances with electric alternatives; installing smart thermostats; insulating hot water pipes; participating in utility demand response or retrofit programs; or installing solar thermal systems. Water efficiency measures may include: plumbing upgrades to meet current standards; installation of water-efficient landscaping and irrigation systems; installation of a greywater system; insulating hot water pipes; or participation in approved water utility retrofit programs. The property owner will have to hire a qualified third-party to do the audit or retro-commissioning report.

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<sup>1</sup> 2024 Inventory of Communitywide Greenhouse Gas Emissions,  
[www.sanjoseca.gov/home/showpublisheddocument/129538/639093399006970000](http://www.sanjoseca.gov/home/showpublisheddocument/129538/639093399006970000)

The Building Performance Ordinance allows for some exemptions for both the annual reporting and fee and for Beyond Benchmarking requirements as well. Cause for exemption includes zoning designations, financial distress, and building use/occupancy reasons such as vacancy or renovations. Covered Buildings can also ask for compliance due date extensions of up to 180 days. There are no fee payment extensions for non-exempt properties.

### **Data Analysis**

Energy Department staff conducted an analysis of Building Performance Ordinance data from calendar year 2018 through 2024. A summary of findings, related to the compliance rate and reductions in energy, water, and greenhouse gas emissions, are below. Additional detailed trend analysis and charts are provided in Attachment A.

#### **Overall Compliance Rates**

In the last three reporting years (2023-2025), San Jose's average benchmarking compliance rate was 87 percent and its average Beyond Benchmarking compliance rate was 71 percent. The annual exemption rate is about 7 percent annually, and about 13 percent for the Beyond Benchmarking program.

In compliance year 2025, San José's annual benchmarking compliance rate was 24 percent higher than the state's benchmarking compliance rate, 20 percent higher than San Francisco's, and 15 percent higher than Berkeley's. The state and other cities either do not have a Beyond Benchmarking program or they have a different program in place that is not a direct comparison. Attachment B includes policy details on 58 U.S. jurisdictions that have adopted a benchmarking ordinance and 16 U.S. jurisdictions that have adopted a building Performance Standards Policy.

#### **Beyond Benchmarking Compliance**

Of all Beyond Benchmarking submittals (2023-2025):

- 50 percent were exclusively the Performance Pathway (showing energy and water efficiency)
- 26 percent were exclusively the Improvement Pathway (audit, retro-commissioning, or efficiency improvement measures)
- 24 percent were a mix of both pathways (one for water, one for energy)

Of those that did the Improvement Pathway:

- 89 percent did a utility audit
- 10 percent implemented efficiency improvement measures
- 1 percent did a retro-commissioning report

Conducting an audit for Beyond Benchmarking compliance does not require the Covered Building to implement the efficiency measures recommended in the audit. It is recommended to do so to meet the Performance Pathway during the next cycle, five years thereafter, but it is not required. Audits are also costly so implementing the recommended efficiency improvement measures could lead to a return on investment once the efficiency gains are realized on utility bills.

### **Energy and Water Usage**

Of the Covered Buildings that have both complied every reporting year (2020-2025) and have data available each year (calendar year 2019-2024 data) there has been a:

- 12 percent reduction in median energy use intensity (kBtu/sq ft)
- 9 percent reduction in median water use intensity (gallons/sq ft)
- 10 percent increase in median Energy Star® scores (score of 0-100, 100 being most efficient)

Based on the data above, Covered Buildings have reduced energy consumption by an average of 2.4 percent annually, comparable to other buildings across the U.S. that benchmarked energy data over a 3-year time span which reduced energy consumption by an average of 2.4 percent annually<sup>2</sup>. Staff do not know the full impact of Beyond Benchmarking yet as it has only been the first compliance year 2023-2026 for Covered Buildings, and the first repeat check-in compliance year is 2028.

### **Greenhouse Gas Emissions**

Overall, since calendar year 2019, median greenhouse gas emissions per building have decreased by 35 percent and total greenhouse gas emissions per square foot across all reporting Covered Buildings have decreased by 38 percent. There are likely multiple possible causes for this reduction such as electricity getting cleaner from San José Clean Energy and the California grid, as well as the Covid-19 pandemic and its impact on occupancy levels in commercial and multi-family properties.

Considering total City implementation costs (including labor, software, and outreach costs), the Building Performance Ordinance has operated at an average low, annual \$22.66 per metric ton of CO<sub>2</sub>e reduced. While the Building Performance Ordinance data shows there has been a reduction in energy and water usage and greenhouse gas emissions, City staff can continue to evaluate additional opportunities to support the City's Climate Smart goals.

### **Planned Next Steps**

Starting in Fiscal Year 2026-2027, City staff expect to provide the following enhanced services to Covered Buildings:

- Survey of building owners on Beyond Benchmarking impact, planned upgrades, and how the City could provide further assistance
- Update ordinance to:
  - Add more options and flexibility to the list of efficiency improvement measures
- Create Covered Building case studies to facilitate information sharing among building owners
- Facilitate Covered Building action by connecting them to available incentive programs, e.g.
  - San José Clean Energy's Peak Rewards program

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<sup>2</sup> Institute for Market Transformation, IMTBenefitsOfBenchmarking\_Online\_June2015.pdf

- PG&E's Measured Savings Summer Reliability program
- Increase coordination with San José Clean Energy outreach, e.g.
  - Sharing resources via San José Clean Energy's Business Connect newsletter

Maintenance activities/continued:

- Host two live webinars each year in an office-hour-like format to walk building owners through the compliance process and allow for extensive question and answer time.
- Maintain, update, and promote the newly created resource of programs that support energy and water efficiency in commercial and multi-family buildings, with particular focus on related San José Clean Energy program offerings.
- Continue to improve the Beyond Benchmarking submittal portal for building owners, in collaboration with the customer relationship management software company, by improving the user interface experience through enhancements and ease of use.

**Options for Future Consideration**

Staff recommends a 1-year full assessment and potential program redesign. By the end of fiscal year 2026-2027, staff will evaluate a variety of options including:

1. Evaluate best practices from other cities
2. Streamline and/or reduce the cost of compliance:
  - a. Allow virtual audits
  - b. Conduct a procurement process to provide lower cost virtual audit option(s) for Beyond Benchmarking Improvement Pathway compliance
  - c. Remove water from Beyond Benchmarking requirements
  - d. Remove third-party data verification requirement for Beyond Benchmarking
  - e. Evaluate how businesses with onsite solar can simplify building performance reporting
  - f. Evaluate the use of AI to aid ordinance implementation
3. Update ordinance to add reduction in onsite greenhouse gas emissions as a Performance Pathway option.
4. Require emission reductions and increased energy efficiency over time: Develop a Building Performance Standards Policy to replace current ordinance.
5. Support upgrade option in Improvement Pathway: Develop a San José Clean Energy pilot program for commercial customers around smart thermostat incentive(s).
6. Analyze submitted Beyond Benchmarking audits to evaluate projects identified, energy and cost savings potential, and where the City can focus efforts to support energy-saving projects.

Staff presented the planned assessment to the Climate Advisory Commission on March 19, 2026. The Climate Advisory Commission was supportive but did express some reservations on removing water from Beyond Benchmarking requirements.

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To meet communitywide greenhouse gas emission reduction goals, addressing the existing building sector is a crucial component. The Building Performance Ordinance has made an impact by reducing energy and water consumption, along with associated greenhouse gas emissions, amongst Covered Buildings. The Building Performance Ordinance will continue to iterate to maintain results while supporting Covered Buildings in the compliance process.

### **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office and City Manager's Budget Office.

/s/

Lori Mitchell

Director, Energy Department

For questions, please contact Julie Benabente, Deputy Director, Energy Department, at [Julie.Benabente@sanjoseca.gov](mailto:Julie.Benabente@sanjoseca.gov) or (408) 975-2537.

### **ATTACHMENTS**

A - Building Performance Ordinance Detailed Trend Analysis

B - Comparison of U.S. Commercial Building Energy Benchmarking and Transparency Policies