

ORDINANCE NO. 1314-15 (CM)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WATSONVILLE ADDING A NEW CHAPTER 51 (CARBON FUND PROGRAM) OF TITLE 14 (ZONING) OF THE WATSONVILLE MUNICIPAL CODE TO ESTABLISH A CARBON FUND FEE TO ASSIST IN ACHIEVING THE CLIMATE RELATED GOALS AS PRIORITIZED IN THE CLIMATE ACTION PLAN FOR THE CITY

WHEREAS, on or about November 4, 2014, the Watsonville Planning Commission adopted Resolution No. 23-14 (PC) recommending that the City Council adopt the Carbon Fund Ordinance, in accordance with the Findings attached hereto and marked as Exhibit “A”; and

WHEREAS, the City Council has reviewed the Ordinance, held a public hearing thereon, and found the request to be consistent with the Findings required for a zoning text amendment pursuant to Section 14-12.807 of the Watsonville Municipal Code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WATSONVILLE, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. ENACTMENT.

Title 14 (Zoning) is hereby amended by adding a new Chapter 51 (Carbon Fund Program) of the Watsonville Municipal Code to read in words and figures as follows:

Chapter 14-51 Carbon Fund Program

Sec. 14-51.010 Purpose.

The purpose of this chapter is to establish and set forth guidelines for a Carbon Fund Program. The City of Watsonville has determined that the reduction of greenhouse gas emissions resulting from the voluntary installation of renewable energy systems in Watsonville, and the establishment of a Carbon Fund Fee will assist in achieving the climate related goals as prioritized in the City’s Climate Action Plan.

Sec. 14-51.020 Definitions.

(a) “California Green Building Standards Code” shall mean the most current edition of the California Code of Regulations Title 24 Part 11 and is also referred to as CalGreen.

(b) “California Energy Code” shall mean the most current edition of the California Code of Regulations Title 24 Part 6.

(c) “Average Annual Electricity Demand” shall mean the average number of kilowatt-hours consumed by electrically powered systems, equipment, devices, etc. in one average year as computed or modeled by a professional involved in the project.

(d) “Carbon Impact Fee” shall mean a development impact fee assessed on all applicable building project types. The Carbon Impact Fee shall be reimbursed for projects that have incorporated voluntary compliance measures by installing on-site energy generation to offset the energy demand of the qualifying addition, alteration, or new construction.

(e) “Carbon Fund Program” shall mean the program, adopted by this ordinance, whereby carbon impact fees assessed on all applicable development are directed to a fund which may only be used to fund qualified projects as prioritized in the Climate Action Plan and approved by City Council.

(f) “Climate Action Plan” shall mean an adopted set of strategies intended to guide community efforts for reducing greenhouse gas emissions in the City of Watsonville.

(g) “Compliance Threshold” means the percent of average annual electricity demand covered by on-site electricity generation systems. Compliance thresholds are 40% and 80%. Refunds issued for voluntary compliance with the Carbon Fund

Program correspond with the compliance threshold, i.e. achieving the 40% compliance threshold means that 50% of the Carbon Impact fee is refunded and achieving the 80% compliance threshold means that 100% of the Carbon Impact fee is refunded.

(h) “Energy Benchmark Disclosure” shall mean the preparation of a disclosure report by the developers of non-residential buildings greater than 5,000 square feet gross floor area. Report shall include comparative measurement and disclosure of commercial building energy performance for the most recent 12 months of energy usage prior to any sale, lease or financing of the entire building as adopted by benchmarking and disclosure policies in California (AB 1103).

(i) “Energy Budget” shall mean the sum of the annual time-dependent valuation (TDV) energy consumption for energy use components included in the performance compliance approach for the Standard Design Building, as established in the Alternative Calculation Method Reference Manual approved by the Energy Commission and calculated by Compliance Software certified by the Energy Commission, pursuant to 2013 Building Energy Efficiency Standards, California Code of Regulations, Title 24, Part 6, or subsequently adopted state energy standards (scheduled to be adopted 7/1/14).

(j) “Energy Efficiency” shall mean the management and conservation of energy usage.

(k) “Energy Use Intensity” shall mean the annual average kilowatt-hour per square foot consumed by a building.

(l) “Greenhouse Gas Emissions” shall mean gasses that trap heat from solar radiation in the atmosphere such as Carbon dioxide (CO₂), Methane (CH₄), Nitrous

oxide (N₂O), Hydrofluorocarbons (HFCs), Perfluorocarbons (PFCs), and Sulphur hexafluoride (SF₆), as specified in the Kyoto Protocol.

(m) “Kilowatt-hour” (kWh) shall mean a measure of electrical energy equivalent to a power consumption of 1,000 watts for one (1) hour.

(n) “On-site Electricity Generation” shall mean a renewable energy device or system that converts chemical, mechanical or thermal energy to electrical energy and is located on the property where development is taking place.

(o) “Solar Photovoltaic Energy System” shall mean the arrangement of components designed to supply usable electric power for the proposed development as sized and installed by a qualified energy professional.

(p) “Voluntary Compliance” shall mean applicant has elected to comply with the voluntary measures contained herein by providing on-site generation to offset computed or modeled average increased annual electricity demand. Successful voluntary compliance as demonstrated on the compliance worksheet and approved by the City will result in the refund of the Carbon Impact Fee multiplied by the refund percentage corresponding to each compliance threshold percentage (i.e., 40% compliance receives a 50% refund and 80% compliance receives a 100% refund).

(q) “Refund” shall mean applicants who successfully document and achieve voluntary compliance according to the administrative procedures set forth in the Carbon Fund Program are entitled to a check in the amount of the Carbon Impact Fee multiplied by refund percentage corresponding to each compliance threshold percentage (i.e., 40% compliance receives a 50% refund and 80% compliance receives a 100% refund).

Sec. 14-51.030 Applicable Building Projects.

(a) The provisions of this chapter shall apply to the following types of building projects for which a building permit is required.

(1) New residential and non-residential construction.

(2) Multifamily residential and non-residential additions and/or alterations.

(3) Single family residential additions over 500 square feet in area.

(b) The following building project types are exempted from the provisions of this chapter:

(1) Single family residential alterations.

(2) Temporary Buildings (such as construction trailers).

(3) Building area which is not or is not intended to be conditioned space.

(4) Any requirements of this chapter which would impair the historic integrity of any building listed on a local, state, or federal register of historic structures, as determined by the Chief Building Official. In making such a determination the Chief Building Official may require the submittal of an evaluation by an architectural historian or similar expert.

(c) All building projects submitted for permit shall meet all applicable requirements of the most recently adopted Building Energy Efficiency Standards, California Code of Regulations, Title 24, Part 6, or subsequently adopted state energy standards.

(d) The Carbon Fund Program is distinct and separate from the Green Building program and compliance with one program does not constitute compliance with the other.

Sec. 14-51.040 Carbon Impact Fee.

(a) This chapter establishes a Carbon Impact Fee to be assessed on all applicable building project types as defined in section 14-51.030 from the date of adoption. The Carbon Impact Fee shall be directed to a Carbon Fund account, not associated with the City's General Fund, to fund greenhouse gas reducing projects as outlined in the City of Watsonville Climate Action Plan.

(b) Carbon Impact fees are equivalent to a percent of the building permit fee, dependent on the building project type:

(1) 50% of building permit fee for new residential and non-residential construction.

(2) 30% of building permit fee for multifamily residential, and non-residential additions and alterations.

(3) 30% of building permit fee for single family residential additions.

(4) Single family residential alterations are exempt from the Carbon Fund Program and are not subject to payment of the Carbon Fund Fee.

Sec. 14-51.050 Carbon Fund.

The Carbon Impact fees shall be collected by the Community Development Department as part of the building permit process and directed to the Carbon Fund by the Director of Finance for use by the City in implementing priority projects that reduce greenhouse gas emissions as prioritized in the City of Watsonville Climate Action Plan.

(a) Guidelines for the use of the Carbon Fund include:

(1) Projects proposed by Public Works, Planning, and other departments are eligible for funds.

(2) Projects proposed must have a direct or indirect greenhouse gas emissions reduction identified.

(3) Projects proposed should be aligned with the priorities identified in the Climate Action Plan.

(4) Funds cannot be used for staff time.

(b) Guidelines for the administration of the Carbon Fund include:

(1) Funds earned need not be expended every fiscal year.

(2) Projects shall be proposed at the end of the fiscal year to utilize fees collected in previous year.

(3) Projects shall be approved by collaborative deliberation between departments and agreement by department heads.

(4) Each project must be presented to City Council for approval by City Council prior to a commitment of funding from the Carbon Fund.

(5) City staff may assess the program after the first year to consider if an additional incentive (e.g., rebated Carbon Impact fee plus a percent of overall development impact and permit fees) is required after the first year of implementation of the Carbon Fund Program to motivate clean energy building construction.

Sec. 14-51.060 Compliance.

(a) Eligible projects subject to the provisions of this chapter will not be issued a Building Permit by the Building Department unless one of the following Carbon Fund Program options in this section are completed:

(1) Option 1: Pay all development impact fees and permit fees, including the Carbon Impact Fee;

(2) Option 2: Pay all development impact fees and permit fees and document voluntary compliance with Section 14-51.70 for Carbon Impact Fee refund;

(b) The City Council may establish, by resolution or ordinance revision, additional incentives for voluntary compliance with the Carbon Fund Program ordinance including financial or application processing incentives and/or award or recognition programs to encourage higher levels of clean energy building construction.

Sec. 14-51.070 Voluntary Compliance Submittal Requirement.

(a) Applicants shall demonstrate voluntary compliance with the Carbon Fund Program by completing and submitting the Carbon Fund Program Applicant Worksheet provided by the City.

(b) New Construction. In order to demonstrate voluntary compliance with this Ordinance, qualified applications shall incorporate on-site electricity generation such as a solar photovoltaic energy system to achieve 40% or 80% of electricity demand from the project, and include the following information:

(1) Documentation of average annual electricity demand using Title 24 Part 6 Energy Budget.

Note: A detailed solar contractor's estimate is sufficient documentation of average annual electricity demand for Single Family residential projects.

(2) If energy efficiency measures are included in the project exceeding Title 24 Part 6 compliance requirements, then the estimated savings from those

measures should be included in the Energy Budget or solar contractor's estimate and deducted from the total project electricity demand.

(3) Title 24 Part 6 Energy Budget or certified solar contractor detailed estimate (latter allowable for Single Family Residential projects only),

(4) Applicant Worksheet to show Carbon Impact Fee compliance threshold and refund level calculations, and

(5) on-site electricity generation system permit application.

(c) Additions. In order to demonstrate voluntary compliance with this Ordinance, qualified applications shall incorporate on-site electricity generation such as a solar photovoltaic energy system to achieve 40% or 80% of electricity demand from the project, and include the following information:

(1) Documentation of average annual electricity demand without existing any renewable energy systems using (a) at least one year of utility bills, (b) Title 24 Part 6 Energy Budget, or (c) for Non-Residential only, an Energy Benchmark Disclosure covering at least one (1) year.

(2) Calculation of Energy Use Intensity (EUI) for building footprint (annual kWh/square foot) based on average annual electricity demand.

(3) Application of the EUI to new addition, minor/major remodel square footage to calculate estimated electricity demand for project.

(4) Provide on-site electricity generation such as a solar photovoltaic energy system to achieve 40%, or 80% of electricity demand. If energy efficiency measures are included in the project, the estimated savings from those measures should be included in the Energy Budget and therefore deducted from the total project electricity demand.

(d) Alterations. Multi-family residential and non-residential alterations may be eligible for a refund of the Carbon Impact Fee when the alteration proposes the installation of solar panels that meet the thresholds outlined in Section 14-51.070(c).

Sec. 14-51.080 Administrative Procedures.

The procedures for administrative processing for voluntary compliance shall follow the provisions of this section, which shall include, but not be limited to the following:

(a) Project design and planning.

(1) Applicant shall follow voluntary compliance submittal requirements and prepare documentation.

(b) Building Plan check review.

(1) Applicant shall submit worksheet and voluntary compliance documentation with all other permit submittals and applicable fees.

(2) Building Department shall review on-site electricity generation system application (e.g., solar photovoltaic energy system) for compliance with the adopted California Electrical Code's latest version at time of plan check, and shall note revision or acceptance of system design.

(3) Building Department shall determine, based on voluntary compliance documentation, the estimated amount of reimbursement of Carbon Fund Fee, and shall notify the applicant of estimate.

(4) At any point in this process, applicant may withdraw Carbon Fund Program voluntary compliance worksheet with no penalty but will not be eligible for Carbon Impact Fee refund.

(c) Changes during construction.

(1) Any changes during construction must be reviewed and approved by the process outlined in this section.

(d) Final building inspection.

(1) The Building Department shall conduct final inspection of qualified project and shall either notify owner/contractor of non-compliance with Carbon Fund ordinance or shall approve Carbon Fund Program voluntary compliance worksheet.

(2) If non-compliant, applicant may modify system to comply with plans and Carbon Fund Program ordinance and steps in this section.

(e) Post-final inspection requirement

(1) If and when compliance with Carbon Fund Program is obtained, the Building Department shall process a refund to be drawn from Carbon Fund in the amount of the Carbon Impact Fee refund multiplied by the compliance threshold.

(f) Conflict with other laws: The provisions of this section are intended to be in addition to and not in conflict with other laws, regulations and ordinances related to building construction and site development. If any provision of this section conflicts with any duly adopted and valid statutes or regulations of the federal government or the State of California, the federal or state statutes or regulations shall take precedence.

Sec. 14-51.090 Annual Program Review.

(a) The City Council shall review this chapter bi-annually to determine the necessity of modifications due to program performance or new legislation enacted by the State or new standards developed by the California Energy Commission, or other

applicable organizations that may impact the Carbon Fund Program. Community Development Department staff shall bi-annually report to the City Manager and City Council the number and types of projects built under this chapter that achieve voluntary compliance as well as fund size and expenditures.

(b) During the bi-annual review of the Carbon Fund Program, the report to City Council should include recommendation to maintain Carbon Impact Fees as a percentage of the building permit fee or adopt an additional incentive to motivate voluntary compliance with the Carbon Fund Program through increased percentages of project valuation or the addition of increased refund amount through other means.

(c) If incentives are increased after the first year, sum of approved projects' costs shall not exceed 75% of the previous year's fund size to ensure adequate reserves to reimburse applicants who comply with voluntary ordinance in current year.

SECTION 2. PUBLICATION.

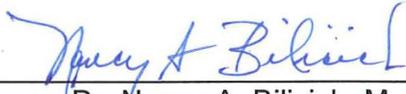
This ordinance shall be published in the Watsonville Register-Pajaronian and/or Santa Cruz Sentinel in compliance with the provisions of the Charter of the City of Watsonville.

SECTION 3. EFFECTIVE DATE.

This ordinance shall be in force and take effect thirty (30) days after its final adoption.

The foregoing ordinance was introduced at the regular City Council meeting of the City of Watsonville, held on the 24th day of February, 2015, by Member Coffman-Gomez, who moved its adoption, which motion being duly seconded by Mayor Pro Tempore Hernandez, was upon roll call carried and ordered printed and published by the following vote:

AYES: COUNCIL MEMBERS: **Coffman-Gomez, Dutra, Garcia, Hernandez, Hurst, Bilicich,**
NOES: COUNCIL MEMBERS: **None**
ABSENT: COUNCIL MEMBERS: **Cervantez**



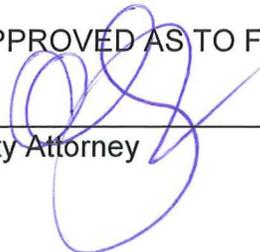
Dr. Nancy A. Bilicich, Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



City Attorney

ORDINANCE NO. 1314-15 (CM)

The foregoing ordinance, having been printed and published as required by the Charter of the City of Watsonville, and coming on for final consideration at the regular meeting of the Council of the City of Watsonville, held on the 10th day of March, **2015**, by Member Hurst, who moved its adoption, which motion being duly seconded by Member Dutra, was upon roll call carried and the ordinance finally adopted by the following vote:

AYES: COUNCIL MEMBERS: **Cervantez, Coffman-Gomez, Dutra, Garcia, Hernandez, Hurst, Bilicich**

NOES: COUNCIL MEMBERS: **None**

ABSENT: COUNCIL MEMBERS: **None**



Dr. Nancy A. Bilicich, Mayor

ATTEST:

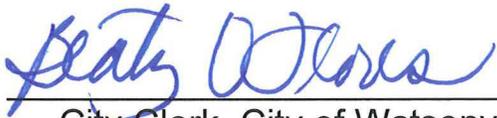


City Clerk

EFFECTIVE DATE:

April 9, 2015

I, Beatriz Vázquez Flores, City Clerk of the City of Watsonville, do hereby certify that the foregoing Ordinance No. 1314-15 (CM) of the Council of the City of Watsonville was passed and adopted by the Council thereof on the 10th day of March, 2015, and a summary was published according to law to-wit: by publication for one day in the Register Pajaronian issue March 7, 2015.



City Clerk, City of Watsonville

Dated: March 30, 2015