



Economic Health Office
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MEMORANDUM

DATE: Aug 21, 2024

TO: Mayor and Councilmembers

CC: Kelly DiMartino, City Manager;
Tyler Marr, Deputy City Manager;
Jacob Castillo, Chief Sustainability Officer;
SeonAh Kendall, Economic Health Director;
Brian Tholl, Sr Manager;
Katherine Bailey, Project Manager

FROM: Braulio Rojas, Chair – Economic Advisory Board;
Erin Gray, Vice-Chair – Economic Advisory Board; and
Members, Economic Advisory Board for 2024

RE: BUILDING PERFORMANCE STANDARDS

Recommendation from the City of Fort Collins Economic Advisory Board (EAB):

The EAB agrees with and recognizes the importance of the Building Performance Standards for reaching City climate objectives. We also applaud the Energy Services team for their robust research and proposal. However, the Board recommends that Council consider the following factors or trade-offs in its decision-making process which we feel may not yet be sufficiently explored:

- **Return on investment:** The Energy Services team identified a return on investment of \$0.85 for every \$1 spent between 2024 and 2035 for the BPS strategy, but this value only considers energy savings. This value does not consider other benefits and factors that can directly improve the ROI for building owners and businesses such as access to State and Federal financial resources.
- **Co-benefits of BPS:** It is important for Council to also consider benefits that are not easily monetizable or incorporated into a building owner's accounting but that contribute to other City goals. Well-noted benefits of BPS include: improvements in indoor air quality, avoided GHG emissions and social damages (included in Energy Services ROI estimate), improved climate resilience to temperature fluctuations, job creation and improved worker productivity, and increase in ability to attract new businesses due to the City's reputation as a climate leader.
- **Transaction costs:** Building owners and businesses will struggle to find time to navigate the technical and financial resources available to reduce their cost



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burden and it is not clear how the City's planned educational resources and knowledge hubs will reduce these transaction costs. The technical complexity of the BPS ideally should be matched with technical support resources.

- **Cost Burden on Businesses:** Building owners may pass any associated costs of BPS implementation onto businesses, which are already grappling with inflation, higher wages, increased costs of goods, and substantial property tax hikes.
- **Business Mobility:** In today's mobile business environment, we must ask—what incentives are keeping businesses in Fort Collins? We suggest the City encourage incentives to business owners for retention, rather than imposing fines for non-compliance, as in the initial proposal.
- **Fort Collins Revenue Reliance:** To maintain a well-funded city, it's essential to bolster our business community as 56% of the City's revenue is derived from sales tax. Escalating costs could potentially risk businesses relocating from Fort Collins and ultimately jeopardize the City's financial stability.

The EAB recommends taking the time to strengthen the economic case for BPS and engage with relevant stakeholders to craft a plan that aligns with both the City's climate goals and the economic vitality of our business community when businesses have not yet fully recovered from the last economic recession. Our recommendation is to evaluate all City owned buildings against the BPS for an analysis of the cost feasibility. Further, we recommend implementing the same feasibility study with Colorado State University. We recognize that BPS is the most powerful and direct policy action to reduce GHG emissions by 2030, but believe strengthening the economic case can reduce potential negative impacts on building owners, businesses, and our local economy, and create stronger community buy-in.

ADDENDUM:

Please also consider the ongoing lawsuits regarding Energize Denver's Building Performance Standards, which have led to a halt in all building development in Denver. [Reference: Colorado Chapter Files Lawsuit Challenging Building Performance Standards.](#)

COLORADO CHAPTER FILES LAWSUIT CHALLENGING BUILDING PERFORMANCE STANDARDS

April 30, 2024 | Denver, Colorado

NAIOP Colorado is part of a coalition that has [filed a federal lawsuit](#) challenging the building performance standard requirements of the Energize Denver program and state Regulation 28. The lawsuit contends that the mandated reductions of greenhouse gas emissions are unrealistic and in violation of the federal Energy Policy and Conservation Act (EPCA). The Act is intended to establish consistent, nationwide energy efficiency standards.

The collective mandate under the state and local programs requires “covered buildings” of 50,000 square feet or larger to reduce greenhouse gas emissions by 7% by 2026 and 20% by 2030 from a 2021 baseline, and effectively serves to ban natural gas as source of heat and hot water within existing buildings. Meeting the requirements will result in a substantial expense for commercial real estate owners forced to extensively retrofit many of their buildings. There is also concern with the reliability of the electric grid in complying with building electrification mandates.

The coalition, which includes NAIOP Colorado, Apartments Association of Metro Denver, Colorado Apartment Association and the Colorado Hotel and Lodging Association, participated in the regulatory process because of their commitment to sustainability and the realities of implementation within the real estate sector. Their input was largely ignored, resulting in the federal lawsuit.

The coalition is optimistic for a favorable court decision following the 9th Circuit Court decision in California that overturned the ban on natural gas in the city of Berkley because it was preempted and in violation of the EPCA. The decision in the Colorado lawsuit will have national implications in other states and localities attempting to establish similar building performance standards under the EPCA.

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