

**ORDINANCE NO. \_\_\_\_\_**

An ordinance amending Sections 91.9704, 91.9705, 91.9706, 91.9708, and 91.9709 of Division 97, Article 1 of Chapter IX of the Los Angeles Municipal Code to make changes to the Existing Building Energy and Water Efficiency Program.

**WHEREAS**, on January 29, 2017, Ordinance No. 184674, became effective, creating the Existing Building Energy and Water Efficiency (EBEWE) Program, the most comprehensive energy and water efficiency law in the United States, with the purpose of reducing energy and water consumption in existing buildings in the City of Los Angeles;

**WHEREAS**, on November 5, 2019, the Los Angeles City Council (Council) instructed the Los Angeles Department of Building and Safety (DBS) to prepare an ordinance to revise the EBEWE Program by making corrections, clarifications, and simplifying compliance dates, specifically amending Sections 91.9704, 91.9705.1, 91.9705.2(e), 91.9708, and Table 9708.2 of Section 91.9708 of Division 97, Article I, Chapter IX of the Los Angeles Municipal Code;

**WHEREAS**, on December 19, 2019, Ordinance No. 186480 became effective, amending Table 9708.2 of Subsection 91.9708.2 of Section 91.9708, Division 97, Article 1, Chapter IX of the Los Angeles Municipal Code to postpone the compliance dates for Energy and Water Audits and Retro Commissioning reports required by Los Angeles Municipal Code Section 91.9706;

**WHEREAS**, Ordinance No. 186480 changed the compliance dates in Table 9708.2 of Los Angeles Municipal Code Subsection 91.9708.2 but did not include all of the corrections and clarifications requested by the Council on November 5, 2019; and

**WHEREAS**, in support of the following modifications and changes, which include all of the corrections and clarifications requested by the City Council on November 5, 2019, the City of Los Angeles hereby expressly finds that the following amendments to the California Building Standards Code pursuant to California Health and Safety Code Sections 17958.5 and 17958.7 are reasonably necessary, due to local administrative, climatic, geological, or topographical conditions, to reduce urban water demand due to persistent cyclical State-wide drought conditions caused by climate change and to reduce energy consumption. Both drought and climate change present an immediate and ongoing threat to the livelihood of persons living in the City of Los Angeles.

NOW, THEREFORE,

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. Section 91.9704 of the Los Angeles Municipal Code is amended to add the following definition in the proper alphabetical order:

**TREATMENT FACILITY:** A facility where industrial processes take place for the treatment of substances, which include, but are not limited to, water, waste, sewage, rain water, oil, and chemicals. Paper mills, foundries, and similar operations are also covered by this definition, which is restricted to the building or buildings where the treatment takes place.

Sec. 2. Subdivision 2(e) of Subsection 91.9705.1 of Section 91.9705 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

(e) Indoor water use, indoor water intensity, outdoor water use (when available), total water use, and irrigated area (if any); and

Sec. 3. Subdivision 5 of Subsection 91.9706.1.3 of Section 91.9706 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

5. A building that does not have a central cooling system or has a cooling system having an aggregate input capacity of less than 100 refrigeration tons (1,200,000 Btu/h) and, in either case, where four of the following six measures listed in Paragraphs (a) to (f) below were completed within the five-year compliance cycle being reported in accordance with Section 91.9708. A report, certified by a California licensed engineer or architect, detailing the measures performed is required:

(a) **Common area and exterior lighting.** Common area (lighting outside of tenant spaces) and exterior lighting fixtures were installed in accordance with the California Building Standards Code (California Code of Regulations, Title 24) in effect at any time during the five-year compliance cycle being reported.

(b) **Pipe insulation.** All exposed pipes used to convey heat or hot water were insulated in accordance with the California Building Standards Code (California Code of Regulations, Title 24) in effect at any time during the five-year compliance cycle being reported.

(c) **Cool roof.** A cool roof was installed in accordance with the Los Angeles Green Building Code and the California Building Standards Code (California Code of Regulations, Title 24) in effect at any time during the five-year compliance cycle being reported.

(d) **Demand response.** The building owner participates in a utility sponsored Demand Response Program and complies with the terms and conditions thereof.

(e) **Solar thermal.** A solar water heating system was installed.

(f) **Domestic hot water.** A new water heater was installed in accordance with the California Building Standards Code (California Code of Regulations, Title 24) in effect at any time during the five-year compliance cycle being reported.

Sec. 4. Subdivision 2 of Subsection 91.9706.2.3 of Section 91.9706 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

2. A building with a cooling system which does not operate by the consumption of water as part of the cooling process and where two of the three following measures were installed within five years of the due date in Section 91.9708. A report, detailing the measures performed, certified by a California licensed engineer or architect, is required:

(a) **Low flow faucets and shower heads.** All faucets and showerheads within the building were replaced and meet the Los Angeles Municipal Code and the California Building Standards Code (California Code of Regulations, Title 24) in effect at any time during the five-year compliance cycle being reported.

(b) **Washing machines.** Front loading clothes washing machines were installed in all common laundry facilities.

(c) **Water closets and urinals.** All water closets and urinals within the building were replaced and meet the Los Angeles Municipal Code and the California Building Standards Code (California Code of Regulations, Title 24) in effect at any time during the five-year compliance cycle being reported.

Sec. 5. Subdivision 4 of Subsection 91.9708.1 of Section 91.9708 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

4. For a privately-owned building or a building owned by a local agency of the State with gross floor area of 20,000 square feet or more, but less than 50,000 square feet, the owner shall complete and submit the initial benchmarking report on or before June 1, 2019, and annually no later than June 1st thereafter.

Sec. 6. Subsection 91.9708.2 of Section 91.9708 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

**91.9708.2. Schedule for Audits and Retro-Commissioning Report Compliance or Exemption.** Compliance with Section 91.9706 shall be due once every five years, as provided in Table 9708.2 based on the last digit of the Los Angeles Department of Building and Safety Building Identification Number (LADBS Building ID) assigned by LADBS to each building subject to this Division under Section 91.9703. Reports or requests for exemption must be received by LADBS by the compliance due date, but not earlier than 90 calendar days prior to the compliance due date.

Sec. 7. Table 9708.2 to Subsection 91.9708.2 of Section 91.9708 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

**TABLE 9708.2**

<b>Last digit of LADBS Building ID</b>	<b>Initial compliance due date</b>	<b>Subsequent compliance due dates</b>
0 or 1	December 1, 2021	Every five years thereafter
2 or 3	December 1, 2022	Every five years thereafter
4 or 5	December 1, 2023	Every five years thereafter
6 or 7	December 1, 2024	Every five years thereafter
8 or 9	December 1, 2025	Every five years thereafter

Sec. 8. Subsection 91.9708.2.1 of Section 91.9708 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

**91.9708.2.1. Timing of Audit and Retro-Commissioning or Exemption.** Except as otherwise provided in Subsection 91.9708.3, the audits and retro-commissioning activities shall be completed no earlier than five years prior to a building's reporting compliance due date.

**EXCEPTION:** Buildings with an AIN (Assessor Identification Number) ending in 0 or 1 that had an initial compliance due date on January 1, 2021 or December 1, 2021 may choose one of the following options for submitting the initial report:

1. Submit the Audit and Retro-Commissioning report or request an exemption by December 1, 2021. All subsequent reports or requests for exemptions shall be completed in accordance with Table 9708.2, which is based on the last digit of the LADBS Building ID.

2. Submit the initial Audit and Retro-Commissioning report or request an exemption based on the last digit of the LADBS Building ID in accordance with Table 9708.2.

If the December 1, 2021, deadline is not met for buildings covered under this exception, then the compliance due dates for the initial and subsequent Audit and Retro-Commissioning reports or requests for exemptions shall be based on the last digit of the LADBS Building ID in accordance with Table 9708.2.

Sec. 9. Subsection 91.9708.3 of Section 91.9708 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

**91.9708.3. Time Extensions.** A building owner may be granted an extension of time to file any submittal required by this Division provided satisfactory proof that one of the following conditions applies. Further, the Department may, at its discretion, grant an extension of time without a filing fee for reviewing and approving the request for an extension of time for conditions 4 through 8:

1. The building is under temporary financial or legal distress, as verified by recent financial statements, legal filings and other relevant documents showing one or more of the following:

(a) The building is under the control of a court-appointed receiver as a result of financial distress;

(b) The building is owned by a financial institution as a result of borrower default;

(c) The building has been acquired by a financial institution via deed in lieu of foreclosure;

(d) The building is encumbered by a senior mortgage subject to a notice of default;

(e) The building is an asset subject to probate proceedings;

(f) The building was subject to property tax arrearages that resulted in the building's inclusion, within the prior two years, on the Los Angeles County annual tax lien sale list; or

(g) The building is subject to a State of California Board of Equalization (BOE) Welfare Property Tax Exemption and the cost of complying with reporting requirements will exceed or significantly deplete existing cash flow. Proof of a BOE-issued Organizational Clearance Certificate and, where the building owner is a limited partnership, a Supplemental Clearance Certificate must be shown.

2. The building is a residential building currently in the Rent Escrow Account Program (REAP) and compliance with this division will materially interfere with compliance with REAP.

3. The owner is unable to timely comply due to a substantial hardship, as determined by the Department.

4. There was a delay receiving energy and or water usage data from the utilities even though it was requested by the owner as directed by the respective utility. Additionally, the owner must have properly submitted the initial request for usage data at least eight weeks prior to the compliance deadline and provided any subsequent information requested by the utilities within the timeframe the utilities specified or within 10 business days if a timeframe was not specified by the utilities.

5. There was an error on the part of the City in providing the building owner with notification pursuant to Subsection 91.9708.4 Notification.

6. Information provided by the City was in conflict with the requirements or intent of the EBEWE Program.

7. The Energy Star Portfolio Manager system malfunctioned or was inaccessible through no fault of the building owner or owner's designee responsible for filing the report.

8. The building owner became the owner less than 90 calendar days prior to the benchmark compliance date.

Sec. 10. Section 91.9709 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

Failure to comply with this division shall subject the owner to noncompliance fees as specified in Section 98.0411 of the Los Angeles Municipal Code, except that the amount of the noncompliance fee shall be \$202.

**EXCEPTION:** The Department may, at its discretion, waive an EBEWE noncompliance fee and associated late fees and interest if it determines, based on satisfactory and verifiable proof, that late compliance or noncompliance was due to any condition described in Subdivisions 4 through 8 of LAMC Subsection 91.9708.3. The waiver of these fees and interest may be applied retroactively, at the discretion of the Department, to December 1, 2017, as applicable.

Sec. 11. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By \_\_\_\_\_

CHARLES D. SEWELL  
Deputy City Attorney

Date 6-5-20

File No. 14-1478-31

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The Clerk of the City of Los Angeles hereby certifies that the foregoing ordinance was passed by the Council of the City of Los Angeles.

CITY CLERK

MAYOR

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\_\_\_\_\_

Ordinance Passed \_\_\_\_\_

Approved \_\_\_\_\_