

## **DRAFT CITY OF MADISON ENERGY BENCHMARKING ORDINANCE**

### **29.047 BUILDING ENERGY USE BENCHMARKING.**

- (1) **Definitions.** For the purposes of this section, the following definitions shall apply:
- (a) **Administrator** means the Facilities and Sustainability Manager for the City of Madison Engineering Division, or designee.
  - (b) **Benchmark** means to input the total energy consumed for a building and other descriptive information for such building as required by the benchmarking tool.
  - (c) **Benchmarking information** means information related to a building's energy consumption as generated by the benchmarking tool, and descriptive information about the physical building and its operational characteristics. The information shall include, but need not be limited to:
    - 1. Building address;
    - 2. Energy use intensity (EUI);
    - 3. Annual greenhouse gas emissions;
    - 4. Water use; and,
    - 5. The energy performance score that compares the energy use of the building to that of similar buildings, where available.
  - (d) **Benchmarking tool** means the United States Environmental Protection Agency's Energy Star Portfolio Manager tool, or an equivalent tool adopted by the Administrator.
  - (e) **Building owner** means an individual or entity possessing title to a building, or an agent authorized to act on behalf of the building owner.
  - (f) **City-owned building** means any building, or group of buildings on the same tax lot, owned by the City of Madison containing 25,000 or more gross square feet of an occupancy use other than residential or industrial.
  - (g) **Covered building** means:
    - 1. Any building containing at least 50,000 but less than 100,000 gross square feet of an occupancy use other than residential or industrial shall be classified as a Class 1 covered building;
    - 2. Any building containing 100,000 or more gross square feet of an occupancy use other than residential or industrial shall be classified as a Class 2 covered building.

The term "covered building" shall not include any building owned by the county, state, or federal government or other recognized political subdivision.
  - (h) **Energy** means electricity, natural gas, steam, heating oil, or other product sold by a utility for use in a building, or renewable on-site electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities.
  - (i) **Energy performance score** means the numeric rating generated by the Energy Star Portfolio Manager tool or equivalent tool adopted by the

Administrator that compares the energy usage of the building to that of similar buildings.

- (j) Energy Star Portfolio Manager means the tool developed and maintained by the United States Environmental Protection Agency to track and assess the relative energy performance of buildings nationwide.
- (k) Tenant means a person or entity occupying or holding possession of a building or premises pursuant to a rental agreement.
- (l) Utility means an entity that distributes and sells natural gas, electric, or thermal energy services for buildings.
- (2) Benchmarking required for city-owned buildings. No later than May 1, 2014, and no later than every May first thereafter, each city-owned building shall be benchmarked for the previous calendar year by the entity primarily responsible for the management of such building, in coordination with the Administrator.
- (3) Benchmarking required for covered buildings. Building owners shall annually benchmark for the previous calendar year each covered building and obtain an energy performance score as available according to the following schedule:
  - (a) All Class 2 covered buildings by May 1, 2015 and by every May 1 thereafter; and
  - (b) All Class 1 covered buildings by May 1, 2016 and by every May 1 thereafter.
- (4) Disclosure and publication of benchmarking information. The building owner shall annually provide benchmarking information to the Administrator, in such form as established by the Administrator's rule, by the date provided by the schedule in subsections (2) and (3).
  - (a) The Administrator shall make readily available to the public, and update at least annually, benchmarking information for the previous calendar year according to the following schedule:
    - 1. Each city-owned building by July 30, 2014 and by every July 30 thereafter;
    - 2. Each Class 2 covered building by July 30, 2015 and by every July 30 thereafter;
    - 3. Each Class 1 covered building by July 30, 2016 and by every July 30 thereafter.
  - (b) The Administrator shall make available to the public, and update at least annually, the following information:
    - 1. Summary statistics on energy consumption in city-owned buildings and covered buildings derived from aggregation of benchmarking information for those buildings;
    - 2. Summary statistics on overall compliance with this section;
    - 3. For each city-owned building and covered building:
      - a. The status of compliance with the requirements of this chapter;
      - b. Annual summary statistics for the building, including energy use intensity, annual greenhouse gas emissions, water use per gross square foot, and an energy performance score where available; and

- c. A comparison of benchmarking information across calendar years for any years such building was benchmarked.
- (5) Exemptions. The Administrator may exempt a building owner from the benchmarking requirements of subsection (c) if the building owner submits documentation establishing any of the following:
  - (a) The building is presently experiencing qualifying financial distress in that the building is the subject of a qualified tax lien sale or public auction due to property tax arrearages, the building is controlled by a court-appointed receiver based on financial distress, the building is owned by a financial institution through default by the borrower, the building has been acquired by a deed in lieu of foreclosure, or the building has a senior mortgage which is subject to a notice of default; or,
  - (b) The building or areas of the building subject to the requirements of this section have been less than fifty (50) percent occupied during the calendar year for which benchmarking is required; or,
  - (c) The building is new construction and the certificate of occupancy was issued less than two (2) years prior to the applicable benchmarking deadline established pursuant to subsection (c).
- (6) Providing benchmarking information to the building owner. Each tenant located in a covered building subject to this chapter shall, within 30 days of a request by the building owner and in a form to be determined by the Administrator, provide all information that cannot otherwise be acquired by the building owner and that is needed by the building owner to comply with the requirements of this section. Where the building owner is unable to benchmark due to the failure of any or all tenants to report the information required by this subsection, the owner shall complete benchmarking using such alternate values as established by the Administrator. The Administrator shall periodically evaluate the quality of any alternate values established pursuant to this subsection and propose revisions that increase the quality of such values.
- (7) Violations. It shall be unlawful for any entity or person to fail to comply with the requirements of this section or to misrepresent any material fact in a document required to be prepared or disclosed by this section.
- (8) Penalty. Any person who fails to comply with any of the provisions of this section, or causes or directs another to do so, shall, upon conviction thereof, be subject to a forfeiture of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each and every violation thereof. Each day that a violation exists shall constitute a separate offense.