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**Subject:** FW: Please read - Concerns and FAQs re the proposed Building Energy Savings Program ordinance

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**Sent:** Monday, February 13, 2023 11:41 AM

**To:** All Alders <[allalders@cityofmadison.com](mailto:allalders@cityofmadison.com)>; EDC <[EDC@cityofmadison.com](mailto:EDC@cityofmadison.com)>

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**Subject:** Please read - Concerns and FAQs re the proposed Building Energy Savings Program ordinance

Caution: This email was sent from an external source. Avoid unknown links and attachments.

Members of the City of Madison's Common Council and Economic Development Committee,

**Request:** With this message, we convey our "[Concerns and FAQs about the City of Madison's proposed Building Energy Savings Program \(BESP\) ordinance](#)" document, which summarizes a lot of material, and is designed to be read in less than 10 minutes. We ask:

- Members of the Economic Development Committee to read this document prior to your February 15 (5PM) meeting, and
- Alders to read it prior to your March 7 Common Council meeting.

**Context:** We are thankful for your service to our city and also aware that you have limited time to learn the details of the many proposed ordinances and other matters that require your deliberation. To that end, we compiled this [Concerns and FAQs](#) document to help you:

1. Learn about concerns that members of the business community have expressed about the proposed Building Energy Savings Program (BESP) ordinance, and
2. Understand the basic elements of the proposed BESP.

Respectfully,

Volunteers of the Madison Climate Working Group, of [350 Wisconsin](#)

**Concerns/Responses and FAQs about the City of Madison's proposed Building Energy Savings Program (BESP) ordinance**

Compiled by [350 Wisconsin](#) Madison Climate Working volunteers

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February 12, 2023

Volunteer members of 350 Wisconsin have prepared this document to help alders and city committee members:

1. Learn about the concerns that members of the business community have expressed about the proposed Building Energy Savings Program (BESP) ordinance, and how the city would address them, (pp.1-3) and
2. Understand the basic elements of the proposed BESP (pp-4-6).

(Sources listed on page 6.)

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## **I. Business Community Concerns**

**Concern 1:** *My business has concerns about releasing proprietary information, such as staff numbers and technology counts (number of computers, etc.) to the City, which the City would then hold. Will the data be protected? How will energy benchmarking data be used? What if a competitor submits an open records request for our data?*

**Response 1:** No data or information about individual buildings will be included in reports except with owner permission, for example, to share a success story. The City is not requiring building owners to submit proprietary information such as staff numbers and technology accounts. Building performance information is to be provided to the City only in order to benchmark, and that information is provided by submitting a one-page Statement of Energy Performance generated by [Portfolio Manager](#).

More specifically, energy benchmarking data will be used by the City to:

1. Provide each building owner a customized annual report for each covered building that includes:
  - a. a summary of whole-building energy use over the year;
  - b. how the building's energy is changing from year to year;
  - c. information on how the building compares to others in Madison;
  - d. customized recommendations for saving energy and the benefits those changes could bring; and
  - e. information on resources building owners can leverage to improve performance, including rebates, incentives, and financing.
2. Provide annual reports that aggregate the data received and identify, for example:
  - a. changes in overall energy use, efficiency, and GHG emissions;
  - b. areas of success, such as particular sectors that show the greatest improvement; and

- c. opportunities for improvement, such as city, state, or federal programs that link up and provide additional resources or support.

These reports will only provide aggregated information. That is, no information about individual buildings will be included.

**Concern 2:** *The cost of the tune-up is vague because we do not know precisely what a tune-up requires. In addition to paying the outside tune-up consultant, we will have to pay for weeks of work by our own staff to gather and provide the data required by the tune-up specialists.*

**Response 2:**

- The cost of a tune-up depends on the size of a building and the complexity of its systems and if the building owner decides to use in house staff or contract out the work. Tune-ups can be completed by trained building staff - and would therefore only cost staff time. If contracted out, the City has shared an estimated average cost of 20 cents/sq. ft, based on data from a nationwide meta analysis, feedback from experts at Lawrence Berkeley National Labs, and conversations with local service providers. Or, building owners can choose an alternative compliance pathway instead of a tune-up. (See p. 12 of the City's [FAQ doc.](#))
- Cost information is found in examples the City has provided of tune-up workbooks from cities with similar policies. For example, [Philadelphia's tune-up workbook](#) details all of the systems that are checked during a tune up and the types of adjustments a tune up specialist would make with input from the building owner or operator.
- The proposed ordinance offers flexibility in policy implementation to provide building owners choice in how they achieve energy efficiency.

**Concern 3:** *It seems unlikely that the tune-ups will produce more savings than the total cost of the tune-up. How much will my building save by doing tune-ups?*

**Response 3:** The average return on investment period for a tune-up is 1.7 years. A meta-analysis by Pacific Northwest National Laboratory (PNNL) shows that tune-ups result in a median annual energy savings of 12% and a median annual cost savings of \$0.16 per square foot for a building. Tune-ups also provide a more comfortable space for tenants and reduce greenhouse gas emissions and other pollutants.

**Concern 4:** *We all agree that something must be done to combat the effects of climate change but at what cost? Businesses are already struggling to recover from a global pandemic.*

**Response 4:** The upfront costs of implementing BESP will be recovered quickly. Moreover, the BESP will be phased in: benchmarking would begin in 2024 and be phased in over three years, and tune-ups would begin in 2025 and be phased in over 2 years. The City will offer businesses resources and support, which will cost businesses nothing. Meanwhile, the Inflation Reduction Act is creating programs to help fund and finance energy efficiency work in commercial buildings, making this a superb time to improve our buildings' energy efficiency. In short, the BESP will end up saving businesses money.

**Concern 5:** *We ask that you revisit the city's legislative directive to establish a voluntary program, as building owners are already struggling to recover from a global pandemic and rising interest rates. Why must this be mandatory?*

**Response 5:** MPower, a voluntary program, was going in 2015 when the first benchmarking program was proposed. However, only a few businesses volunteered and MPower has since ended. Energy Star Portfolio Manager has been available for businesses to use since 2000. Focus on Energy also is a voluntary incentive-based program. Only a tiny minority of Madison's large building owners acted voluntarily by using these programs. This ineffective outcome is consistent with research by the Institute for Market Transformation that shows that even the best voluntary energy efficiency programs only reach 2-3% of buildings annually. To meet the climate goals the Common Council voted for in 2011, the City must implement a program that is supported by evidence. We cannot afford to stay with an approach that fails to achieve the needed results.

**Concern 6:** *The proposed ordinance includes a provision that allows "additional qualified certifications as the Administrator deems appropriate." Members of the business community have asked if the ordinance can allow them to decide who on their staff should be considered qualified as "tune-up specialists," or even to allow experience to count (e.g., no required certification).*

**Response 6:** The City has invited owners to describe their needs, suggest a remedy and propose that it be included in the ordinance.

**Other business community concerns (drawn from comments to EDC), stated as questions:**

**Concern 7:** *Why should we believe that companies will choose to stay in Madison where they are required to benchmark, rather than going to suburbs where benchmarking is not required?*

**Response 7:** It is unlikely that a business would move out of Madison over BESP, especially because participation in BESP will result in saving money and energy, outcomes that are consistent with good management and business sense.

**Concern 8:** *How can the owner of a commercial building that rents to tenants comply with the ordinance if tenants choose not to provide their energy data?*

**Response 8:** The ordinance has provisions that enable building owners to get extensions or waivers for extenuating circumstances of this type. These are situations that building owners can work on with the City. According to page 6 of the [proposed ordinance](#), "Where, despite good faith effort to obtain data as provided in this subsection (c), an owner is unable to obtain data for a portion of a building because the tenant in control of such a portion of the building failed to comply with this ordinance, the owner may report partial-building data."

## II. Frequently Asked Questions

**Q1:** Why is the City requiring benchmarking and tune-ups for commercial buildings?

**A1:** Commercial building energy use accounts for 30% of Madison's greenhouse gas (GHG) emissions. To meet our goal of reaching net zero carbon emissions community wide by 2050, we must reduce emissions from all sources, including our built environment.

Data from benchmarking and tune-up ordinances in 40+ other cities, counties and states make clear that these programs result in substantial reductions in emissions from buildings, while also reducing energy costs for building occupants. A few of the cities implementing these programs are: Ann Arbor, Bloomington, MN, Chicago, Columbus, OH, Des Moines, Indianapolis, Minneapolis, St. Paul, NYC, St Louis, MO. (Click [here](#) for a table describing locations implementing these policies as of 07/22.) The City of Madison seeks to turn this knowledge into action, in line with climate goals established as early as 2011, and to add Madison to the large set of cities already implementing benchmarking and tune-up policies.

**Q2:** In a nutshell, what would the proposed Building Energy Saving Program (BESP) require from large commercial building owners, and why?

**A2:** The proposed BESP asks the owners of large commercial buildings to conduct benchmarking and (for the largest buildings) tune-ups in order to ensure that building owners get good information about whether their buildings are operating efficiently. Commercial building systems are complex, and they need to be adjusted regularly to achieve top efficiency. The City is not requiring building owners to *act* on their benchmarking or tune-up findings. However, based on information from many other cities with benchmarking programs, we know that most building owners choose to address problems that benchmarking and tune-ups make visible, which helps reduce energy costs for building tenants and helps all of us by reducing emissions from our city.

**Q3:** What is building energy benchmarking?

**A3:** You can't manage what you don't measure. Benchmarking is basically taking a close look at building energy use, the same sort of thing that the average homeowner does on a regular basis. Energy benchmarking enables building owners and operators to understand current energy use patterns, identify opportunities to save energy and money, and track changes over time. Importantly, the proposed City of Madison ordinance does **not** require a building to meet a prescribed level of energy use.

**Q4:** How much will benchmarking cost?

**A4:** The City has chosen a *free* reporting tool, the web-based ENERGY STAR Portfolio Manager. ENERGY STAR Portfolio Manager is the nationally-preferred tool to measure and track building energy and water use.

**Q5:** Do other cities have similar policies?

**A5:** Yes, 40+ other cities, counties, and states have similar programs, many of which are more stringent and demanding than the ordinance proposed by the City of Madison.

**Q6:** What are building tune-ups?

**A6:** A building tune-up entails reviewing energy systems, controls, and maintenance practices, and making minor adjustments and fixes as needed to bring them up to a good state of performance.

**Q7:** Which commercial buildings will be required to do tune-ups, and on what timeline?

**A7:** The ordinance would require tune-up for non-residential, commercial buildings with floor space of at least 50,000 sq. ft. In mixed-use buildings, only the non-residential portion of a building counts toward the size threshold and is covered by the program. As for timing,

- buildings 100,000SF or larger would need to tune up or complete an alternative compliance pathway by October 31, 2025;
- buildings 50,000 to 99,999 square feet would need to tune up or complete an alternative compliance pathway by October 31, 2026.

Thereafter, each would need to tune up every four years. Owners can also get an extension or exemption if they meet specific conditions.

**Q8:** Will the City waive the requirement for benchmarking and tune-ups for buildings that already are well managed, and can demonstrate that they are energy-efficient?

**A8:** Yes. The City has identified 7 “alternative pathways” (e.g., Certified ENERGY STAR score of 75 or greater from EPA) by which building owners can demonstrate their energy efficiency. More pathways will be identified as the program evolves. These alternatives are listed on pp. 12 - 13 of the [City’s BESP FAQ document](#).

**Q9:** Are there incentives to assist with the cost of tune-up?

**A9:** Focus on Energy provides up to \$1,850 in incentives for Wisconsin utility customers who successfully complete at least three of the eligible measures. Focus on Energy incentives and federal tax incentives are also available for those who take on additional projects to implement efficiency measures. If you’re pursuing an alternative compliance pathway, the Inflation Reduction Act (IRA) provides tax credits up to \$5/sq. ft for energy efficiency improvements in commercial buildings that deliver lower energy bills, such as improvements to a building’s envelope, HVAC systems, lighting, and controls. Businesses can also receive tax credits covering 30% of the costs of installing solar power and battery storage.

**Q10:** How do I find a tune-up specialist?

**A10:** If your on-site staff have any of the certifications listed in the ordinance, then they are qualified to perform a tune-up of your buildings under this program. If you have a regular maintenance contract, this service provider may be qualified to perform a tune-up. Focus on Energy maintains a list of Trade Allies – contractors and service providers who partner with FoE to deliver energy efficiency and renewable energy products and expertise directly to Wisconsin residents and businesses. Search for “Retro Commissioning” using their online tool.

**Q11:** Does one tune-up specialist certification carry more weight than another?

**A11:** No. All certifications are considered equal by this program. However, a building owner may want to request references to learn how your tune-up specialist has performed for other clients.

**Q12:** Is assistance available to cover the cost of getting certified as a qualified building tune-up specialist?

**A12:** Focus on Energy offers full tuition reimbursement upon completion of Building Operator Certification. Check their Events and Trainings Calendar to see upcoming offerings.

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## Sources

The questions/concerns presented here are drawn from the following documents:

- [Jan 12, 2023 WKOW News](#)
- Jan 10, 2010 State Journal, "[Madison May Require energy-user reports, tune-ups for large commercial buildings](#)"
- [Comments \(in Legistar 75280\) presented to the EDC by members of the Chamber](#)
- [WSJ Editorial Board's Jan 26 Opinion piece](#)
- [Alder Ever's 1/31 response to the Jan 26 opinion piece](#)

Resources describing the BESP used to produce this document are:

- [City of Madison website description](#) (scroll to "Commercial Buildings" section at the bottom of this page)
- City's [FAQ doc](#)
- The [proposed ordinance](#)
- [Video presentation about the proposed program](#) (minutes 1:08 - 1:44), by the City's Sustainability and Resilience Manager, Jessica Price