

## ORDINANCE

By Schroeder and Gordon

### Amending Title 3, Chapter 47 of the Minneapolis Code of Ordinances relating to Air Pollution and Environmental Protection: Energy and Air Pollution.

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Section 47.190 of the above-entitled ordinance be amended to read as follows:

**47.190 Commercial and multifamily residential building rating and disclosure.** (a) *Definitions.* The following words shall have the meaning ascribed to them, unless the context clearly indicates a different meaning:

*Benchmark* means to input the total energy consumed for a building and other descriptive information for such building as required by the benchmarking tool.

*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:

- ~~a. (1)~~ Building address;
- ~~b. (2)~~ Energy use intensity (EUI);
- ~~c. (3)~~ Annual greenhouse gas emissions;
- ~~d. (4)~~ Water use; and
- ~~e. (5)~~ The energy performance score that compares the energy use of the building to that of similar ~~buildings~~ properties, where available.

*Benchmarking tool* means the United States Environmental Protection Agency's Energy Star Portfolio Manager tool, or an equivalent tool adopted by the director.

*Building Property owner* means an individual or entity possessing title to a building, or an agent authorized to act on behalf of the ~~building~~ property owner.

*City-owned building property* means any building, or group of buildings on the same tax lot, owned by the City of Minneapolis containing twenty-five thousand (25,000) or more gross square feet of an occupancy use other than ~~residential~~ ~~or~~ industrial.

~~Covered building means:~~

~~(1) Any building containing at least fifty thousand (50,000) but less than one hundred thousand (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 one hundred thousand (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.~~

Covered property means any property that has one or more buildings containing in sum the gross square feet of a designated occupancy use shall be classified in the following classes:

<u>Property Type</u>	<u>Class</u>	<u>Property Size (in square feet)</u>
<u>Non-residential, non-industrial</u>	<u>1</u>	<u>150,000 and greater</u>
	<u>2</u>	<u>100,000 - 149,999</u>
	<u>3</u>	<u>75,000 – 99,999</u>
	<u>4</u>	<u>50,000 – 74,999</u>
<u>Residential</u>	<u>5</u>	<u>150,000 and greater</u>
	<u>6</u>	<u>100,000 - 149,999</u>
	<u>7</u>	<u>75,000 – 99,999</u>
	<u>8</u>	<u>50,000 – 74,999</u>
	<u>9</u>	<u>Less than 50,000</u>

The term "covered building property" shall not include any building owned by the local, county, state, or federal government or other recognized political subdivision.

*Director* means the commissioner of the Minneapolis Health Department or the commissioner's designee.

*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.

Energy evaluation means a systematic process of identifying and developing modifications and improvements of the base building systems, including but not limited to alterations of such systems and the installation of new equipment, insulation or other generally recognized energy and water efficiency technologies to optimize energy and water use performance of the building and achieve energy and water savings, provided that such process shall be at least as stringent as or comparable to the Level I Energy Survey and Engineering Analysis of the most recent edition of Procedures for Commercial Building Energy Audits published by the American Society of Heating, Refrigerating and Air-conditioning Engineers Inc. (ASHRAE) or as otherwise determined by the director and such process for water systems shall be as determined by the director.

*Energy performance score* means the numeric rating generated by the Energy Star Portfolio Manager tool or equivalent tool adopted by the director that compares the energy usage of the building to that of similar buildings.

*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.

Monthly Energy Use Information means the average amount of electrical and natural gas energy paid for by a rental building tenant each month, either directly or through a rental utility billing system or similar arrangement, and the cost of that energy, as provided by the electrical and natural gas utilities.

*Tenant* means a person or entity occupying or holding possession of a building or premises pursuant to a rental agreement.

*Utility* means an entity that distributes and sells natural gas, electric, or thermal energy services for buildings.

(b) *Benchmarking required for city-owned ~~buildings~~ properties.* No later than June first, 2013, and no later than every June 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 director.

(c) *Benchmarking required for covered ~~building~~ property.* Building Property owners shall annually benchmark for the previous calendar year each covered building property and obtain an energy performance score as available according to the following schedule:

(1) All Class 1 and 2 covered ~~buildings~~ properties by June first, 2014 and by every June first thereafter; ~~and~~

(2) All Class ~~1~~ 3 and 4 covered ~~buildings~~ properties by June first, 2015 and by every June first thereafter;

(3) All Class 5 and 6 covered properties by June first, 2019 and by every June first thereafter; and

(4) All Class 7 and 8 covered properties by June first, 2020 and by every June first thereafter.

(d) *Disclosure and publication of benchmarking information.* The building property owner shall annually provide benchmarking information to the director, in such form as established by the director's rule, by the date provided by the schedule in subsections (b) and (c).

(1) The director shall make readily available to the public, and update at least annually, benchmarking information for the previous calendar year according to the following schedule:

a. Each city-owned building property by August thirtieth, 2013 and by every August thirtieth thereafter;

b. Each Class 1 and 2 covered ~~building~~ property by August thirtieth, 2015 and by every August thirtieth thereafter;

c. Each Class ~~1~~ 3 and 4 covered ~~building~~ property by August thirtieth, 2016 and by every August thirtieth thereafter;

d. Each Class 5 and 6 covered property by August thirtieth, 2019 and by every August thirtieth thereafter; and

e. Each Class 7 and 8 covered property by August thirtieth, 2020 and by every August thirtieth thereafter.

(2) The director shall make available to the public, and update at least annually, the following information about city-owned properties and Class 1, 2, 3, 4, 5, 6, 7, and 8 properties:

a. Summary statistics on energy consumption ~~in city-owned buildings and covered buildings~~ derived from aggregation of benchmarking information for ~~those buildings~~ properties;

b. Summary statistics on overall compliance with this section;

c. For each ~~city-owned building and covered building~~ property:

1. The status of compliance with the requirements of this chapter;

2. Annual summary statistics for the ~~building~~ property, including energy use intensity, annual greenhouse gas emissions, water use per gross square foot, and an energy performance score where available; and

3. A comparison of benchmarking information across calendar years for any years such ~~building~~ property was benchmarked.

(e) Energy Evaluation Requirement. Class 1, 2, 3, 4, 5, 6, 7, and 8 properties with energy and water efficiency improvement potential shall submit proof of an energy evaluation having been performed according to the schedule (1) below. The evaluation must have been performed within the last five (5) years and must include recommendations for energy and water savings opportunities. Qualifying proof that an evaluation has been performed shall be established by rules set at discretion by the director. The director shall also establish energy standards in the Compliance Standards for Energy Benchmarking rules that define buildings requiring an evaluation. The requirement imposed by this subsection upon owners or operators of properties to obtain an energy evaluation shall only apply if the director identifies a path of qualifying evaluations that are free of charge to the property owner.

(1) Properties shall submit proof of energy evaluation according to the following schedule:

a. All Class 1 and 5 covered properties by June first, 2020 and by June first every fifth year thereafter;

b. All Class 2 and 6 covered properties by June first, 2021 and by June first every fifth year thereafter;

c. All Class 3 and 7 covered properties by June first, 2022 and by June first every fifth year thereafter; and

d. All Class 4 and 8 covered properties by June first, 2023 and by June first every fifth year thereafter

(f) Time of Rent Disclosure. Owners of Class 5, 6, 7, 8, and 9 rental properties shall disclose building energy use information to residential tenants at time of application if an application is provided. If no application is provided, energy use information shall be posted in the rental property in keeping with section 244.2000(a). The property owner or the owner's representative shall provide energy disclosure information in a format prescribed by the City of Minneapolis.

(1) Owners of Class 5, 6, 7, and 8 properties shall disclose benchmarking information on September first, 2021, and thereafter.

(2) Owners of Class 9 properties shall disclose monthly average energy use information regarding units in the covered property over the previous twenty-four (24) months on September first, 2021, and thereafter.

~~(e)~~ (g) Exemptions. The director may exempt a building property owner from the benchmarking and energy evaluation requirements of subsection (c) if the building property owner submits documentation establishing any of the following:

(1) The building property is presently experiencing qualifying financial distress in that the building property is the subject of a qualified tax lien sale or public auction due to property tax arrearages, the building property is controlled by a court-appointed receiver based on financial distress, the building property is owned by a financial institution through default by the borrower, the building property has been acquired by a deed in lieu of foreclosure, or the building property has a senior mortgage which is subject to a notice of default; or

(2) The building property or areas of the building property 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

~~(3) 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). The property does not have a Certificate of Occupancy or temporary Certificate of Occupancy for all twelve (12) months of the calendar year for benchmarking is required.~~

~~(f)~~ (h) Providing benchmarking information to the building property owner. Each tenant located in a covered building property subject to this chapter shall, within thirty (30) days of a request by the building property owner and in a form to be ~~determined~~ approved by the director, provide all information that cannot otherwise be acquired by the building property owner and that is needed by the building property 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 director. The director shall periodically evaluate the quality of any alternate values established pursuant to this subsection and propose revisions that increase the quality of such values.~~

~~(g)~~ (i) 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.

~~(h)~~ (j) Enforcement. The director shall enforce the provisions of this section. If it is determined that a building property owner or any person subject to the provisions of this section fails to meet any requirement of this section, the director shall mail a warning notice to the building property owner or person. The notice shall specify the reasons why the building property owner or person fails to meet the requirements set forth in this section. The notice shall indicate that the person has forty-five (45) business days to comply with the applicable requirement. Any building property owner or person who fails, omits, neglects, or refuses to comply with the provisions of this section after the period of

compliance provided for in the required warning notice shall be subject to an administrative penalty pursuant to Chapter 2 and the schedule of civil fines adopted by the city council. The provisions of Chapter 2 shall govern the appeal and hearing rights afforded to any such person. Additionally, failure to comply with this section may constitute good cause for the denial, suspension, revocation or refusal to issue a rental license provided for pursuant to Chapter 244, Article XVI, or the certificate of commercial building registration provided for pursuant to Chapter 174, Article IV of this Code or any applicable business license held by the ~~building~~ property owner or person. This section may also be enforced by injunction, abatement, mandamus, or any other appropriate remedy in any court of competent jurisdiction.

(†) (k) Rules. The director shall promulgate and publish such rules as deemed necessary to carry out the provisions of this section. The Compliance Standards for Energy Benchmarking rules shall be made publicly available.

(†) (l) Severability. If any portion of this section is determined to be invalid or unconstitutional by a court of competent jurisdiction, that portion shall be deemed severed from the regulations, and such determination shall not affect the validity of the remainder of the section. If the application of any provision of this section to a particular person or property is determined to be invalid or unconstitutional by a court of competent jurisdiction, such determination shall not affect the application of said provision to any other person or property.