

1
2 **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY**
3 **OF ORLANDO, FLORIDA, RELATING TO**
4 **ENVIRONMENTAL SUSTAINABILITY; CREATING**
5 **CHAPTER 15 OF THE ORLANDO CITY CODE**
6 **ENTITLED "SUSTAINABILITY"; ESTABLISHING A**
7 **BUILDING ENERGY BENCHMARKING PROGRAM;**
8 **PROVIDING DEFINITIONS, LEGISLATIVE FINDINGS,**
9 **AND ; PROVIDING BENCHMARKING AND**
10 **NOTIFICATION REQUIREMENTS FOR CERTAIN**
11 **COMMERCIAL BUILDINGS; PROVIDING A SCHEDULE**
12 **FOR COMPLIANCE; PROVIDING FOR PENALTIES FOR**
13 **VIOLATIONS; PROVIDING FOR SEVERABILITY,**
14 **CODIFICATION, CORRECTION OF SCRIVENER'S**
15 **ERRORS, AND AN EFFECTIVE DATE.**
16

17
18 **WHEREAS**, energy used in buildings accounts for approximately three-fourths
19 of Orlando's emissions of the gases that contribute to public health impacts and climate
20 change, including sea-level rise, increasing temperatures, and more intense storms; and
21

22 **WHEREAS**, the three Water Management Districts responsible for managing
23 water resources in Central Florida anticipate that by 2035 an additional 250 million
24 gallons of water will be used per day in Central Florida beyond the Floridan Aquifer's
25 sustainable capacity; and
26

27 **WHEREAS**, by 2018, the Green Works Orlando Community Action Plan
28 (approved in August 2013) calls for a reduction of city-wide energy use by 5%, reduction
29 of our carbon pollution by 25%, and reduction of gross potable water consumption per
30 capita by 3%; and
31

32 **WHEREAS**, the Green Works Orlando Taskforce, comprised of a broad
33 representation of leaders within the community recommended in 2013 that the City of
34 Orlando adopt a building energy benchmarking and reporting, auditing, and retro-
35 commissioning ordinance as a component of a more comprehensive set of actions to
36 increase energy efficiency of buildings in Orlando, and reduce greenhouse gas
37 emissions, such recommendations being accepted by City Council by approval of the
38 2013 Green Works Community Action Plan; and
39

40 **WHEREAS**, more than 15 major U.S. cities and counties, including New York,
41 Chicago, Atlanta, Boulder, Kansas City and others, have adopted similar requirements,
42 thus demonstrating the acceptability, legality and feasibility of such requirements; and
43

44 **WHEREAS**, energy and water use information and systemic management
45 assists building owners in making cost-effective efficiency investments, thereby not only
46 reducing greenhouse gas (GHG) and other air pollutant emissions from the burning of
47 fossil fuels, but also reducing operating cost, improving indoor comfort, and providing
48 resiliency against drought; and
49

ORDINANCE NO. 2016-64

50 **WHEREAS**, climate action and energy and water efficiency spurs Orlando's
51 green economy and job creation; makes Orlando more attractive for people and
52 businesses; and underlines Orlando's innovative leadership across Florida and the U.S.;
53 and

54
55 **WHEREAS**, OUC has stated that effective energy and water efficiency policies
56 can delay the need for costly new energy and water generation facilities that will likely
57 increase utility costs for all ratepayers; and

58
59 **WHEREAS**, the City of Orlando was selected as one of only ten cities in the
60 United States to participate in the City Energy Project (CEP), a national initiative to
61 create healthier and more prosperous American cities by improving the energy efficiency
62 of buildings through innovative and practical solutions that cut energy waste, boost local
63 economies, and reduce harmful pollution; and

64
65 **WHEREAS**, the City of Orlando as a participant in the CEP is committed to
66 pioneering actions that will serve as models for communities nationwide and around the
67 world; and

68
69 **WHEREAS**, the Orlando City Council hereby finds that adopting this ordinance is
70 in the best interest of the public health, safety, and welfare of the citizens of the City of
71 Orlando.

72
73 **NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY**
74 **OF ORLANDO, FLORIDA, AS FOLLOWS:**

75
76 **SECTION 1. CH. 15, CREATED.** Chapter 15, Code of the City of Orlando,
77 Florida, is hereby created as follows:

78
79
80 **CHAPTER 15 - SUSTAINABILITY**

81
82 **PART I. BUILDING ENERGY BENCHMARKING**

83
84 **Section 15.01. Purpose and intent.**

85
86 It is the intent of this Part I of this Chapter to make relevant and comparable
87 information on building energy usage intensity readily available within the marketplace;
88 reduce the emissions and air pollutants, including greenhouse gases, from energy
89 consumption; encourage efficient use of energy and water resources; and promote
90 further investments in the real estate marketplace by requiring reporting and
91 transparency of energy usage in certain large buildings in accordance with this article.

92
93 **Section 15.02. Definitions.**

94
95 The following words, terms, and phrases, when used in Part I of this Chapter,
96 shall have the meanings ascribed to them in this section, except where the context
97 clearly indicates a different meaning:
98

ORDINANCE NO. 2016-64

99 (1) “Anonymized data” means data that does not reveal names, addresses, or any other
100 information that would identify an individual or business.

101
102 (2) “Audit report” means the final document produced by the energy auditor including but
103 not limited to:

- 104
105 (a) the summary audit report,
106 (b) a general assessment of how the major energy consuming equipment and
107 systems used within tenant spaces impact the energy consumption of the
108 base building systems based on a representative sample of spaces as
109 determined by the director, and
110 (c) narratives, photographs, and any additional explanatory information as
111 required to describe the results of the audit.

112
113 (3) “Base building systems” means the systems or subsystems of a building that use or
114 distribute energy and/or water and/or impact energy and/or water consumption,
115 including:

- 116
117 (a) The building envelope,
118 (b) The HVAC (heating ventilating and air conditioning) systems,
119 (c) Conveying systems,
120 (d) Electrical and lighting systems,
121 (e) Domestic hot water systems,
122 (f) Water distribution systems,
123 (g) Plumbing fixtures and other water-using equipment, and
124 (h) Landscape irrigation systems and fountains.

125
126 Base building systems do not include:

- 127
128 (i) Systems or subsystems owned by residential tenants, condominium unit
129 owners, or cooperative unit shareholders, or a system or subsystems for which
130 such residential tenants, condominium unit owners, or cooperative unit
131 shareholders bear full maintenance responsibility and that is within the residential
132 tenant’s, condominium unit owner’s, or cooperative unit shareholder’s leased or
133 owned space and/or exclusively serves such leased or owned space.
134 (ii) Systems or subsystems owned by a non-residential tenant or for which a non-
135 residential tenant bears full maintenance responsibility; and that is within the
136 tenant’s leased space and/or exclusively serves such leased space; and for
137 which the tenant pays all the energy bills according to usage and demand as
138 measured by a meter or sub-meter.
139 (iii) Systems or subsystems of any industrial, or manufacturing processes, or of
140 an “amusement ride” as that term is defined in section 616.242(3)(a), Florida
141 Statutes.

142
143 (4) “Benchmark” means to input and submit the total energy consumed for a property for
144 the previous calendar year and other descriptive information for such property as
145 required by the benchmarking tool. Total energy consumption shall not include
146 separately metered uses that are not integral to building operations, such as broadcast
147 antennas and electric vehicle charging stations, as determined by the director.
148

ORDINANCE NO. 2016-64

- 149 (5) "Benchmarking submission" means a subset of:
150
151 (a) Information inputted into the benchmarking tool; and
152 (b) Benchmarking information generated by the benchmarking tool, as
153 determined by the director.
154
- 155 (6) "Benchmarking tool" means the U.S. Environmental Protection Agency's ENERGY
156 STAR Portfolio Manager, or any functionally equivalent or superior tool selected by the
157 owner and approved by the director, used to track and assess the energy use of certain
158 buildings relative to similar properties.
159
- 160 (7) "Building management system" means a computer-based system that monitors and
161 controls a building's mechanical and electrical equipment, such as HVAC, lighting,
162 power, fire, and security systems.
163
- 164 (8) "Continuous commissioning" means an ongoing process of comparing data obtained
165 through the building management system with analytic models; identifying
166 problematic sensors, controls and equipment; and resolving operating problems,
167 optimizing energy use and identifying retrofits for existing buildings.
- 168 (9) "Covered city property" means a property:
169
170 (a) That exceeds 10,000 gross square feet in total gross floor area; and
171 (b) That is owned by the city or for which the city regularly pays all or part of the
172 annual energy bills.
173
- 174 (10) "Covered non-city property" means a property, other than covered city property:
175
176 (a) That exceeds 50,000 gross square feet in total gross floor area; or
177 (b) That has one or more buildings held in the condominium form of ownership
178 that is governed by the same board of managers and that equals or exceeds
179 50,000 gross square feet in total combined floor area.
180
- 181 (11) "Covered property" means any covered city property or covered non-city property.
- 182 (12) "Current facility requirements" means the owner's current operational needs and
183 requirements for a building, including temperature and humidity set points, operating
184 hours, filtration, and any integrated requirements such as controls, warranty review, and
185 service contract review.
186
- 187 (13) "Director" means the director of the City of Orlando's Office of Sustainability &
188 Energy.
189
- 190 (14) "Energy" means electricity, natural gas, steam, or other product sold by a utility to a
191 customer of a property, or renewable on-site electricity generation, for purposes of
192 providing heating, cooling, lighting, water heating, or for powering or fueling other end-
193 uses captured by ENERGY STAR Portfolio Manager.
194

ORDINANCE NO. 2016-64

195 (15) “Energy audit” or “audit” means a systematic process of identifying and developing
196 modifications and improvements of the base building systems, including but not limited
197 to alterations of such systems and the installation of new equipment, insulation or other
198 generally recognized energy efficiency technologies to optimize energy use performance
199 of the building and achieve energy savings, provided that such process shall be at least
200 as stringent as or comparable to the Level 2 Energy Survey and Engineering Analysis of
201 the most recent edition of Standard 211 Procedures for Commercial Building Energy
202 Audits published by the American Society of Heating, Refrigerating and Air-conditioning
203 Engineers Inc. (ASHRAE). Eligible audits such as the ASHRAE Building Energy
204 Quotient (bEQ) and/or the free commercial audit offered by a utility provider will be
205 allowed to comply with the audit requirements.
206

207 (16) “Energy auditor” means an individual possessing such certifications as determined
208 by the director to perform or directly supervise individuals performing energy audits and
209 to certify audit reports required by this ordinance. The auditor could be an employee or
210 contractor hired by the reporting entity, an employee of the utility provider, or a third-
211 party service provider who qualifies with the minimum criteria. Until such time as there is
212 a US Department of Energy (DOE)-recognized standard establishing qualifications for
213 persons performing energy audits and such standard has been adopted by the office, an
214 energy auditor and any member(s) of the team that such auditor supervises shall have
215 the certifications or qualifications as the office deems to be appropriate. After the
216 establishment of such a DOE-recognized standard, the office may adopt the
217 qualifications of the DOE-recognized standard with modifications as the office deems to
218 be appropriate. In the interim, energy auditors shall have earned one or more of the
219 following credentials and have two or more years of auditing experience: licensed
220 Professional Engineers (PE), Certified Energy Managers (CEM), Certified Facilities
221 Manager (CFM), Building Energy Assessment Professional (BEAP), Existing Building
222 Commissioning Professional (EBCP), or Certified Energy Auditor (CEA).
223

224 (17) “Energy management system” means a system incorporating interior temperature
225 sensors and a central processing unit and controls, which are used to monitor and
226 control gas, steam, and oil usage, as is applicable.
227

228 (18) “ENERGY STAR score” means the 1-100 score or the Energy Use Intensity (EUI)
229 numeric rating generated by the ENERGY STAR Portfolio Manager tool.
230

231 (19) “ENERGY STAR Portfolio Manager” means the tool developed and maintained by
232 the U.S. Environmental Protection Agency to track and assess the relative energy
233 performance of buildings nationwide.
234

235 (20) “Financial hardship” (of a property) means a property that:
236

- 237 (a) Had arrears of property taxes or water or wastewater charges that resulted
238 in the property’s inclusion, within two years prior to the due date of a
239 summary audit/retro-commissioning report, on the Orange County Property
240 Appraiser’s annual tax lien sale list;
- 241 (b) Has a court appointed receiver is in control of the asset due to financial
242 distress;
- 243 (c) Is owned by a financial institution through default by the borrower;
- 244 (d) Has been acquired by a deed in lieu of foreclosure; or

ORDINANCE NO. 2016-64

245 (e) Has a senior mortgage subject to a notice of default.

246
247 (21) “Office” means the City of Orlando Office of Sustainability & Energy.

248
249 (22) “Owner” means any of the following:

- 250
251 (a) An individual or entity possessing title to a covered property or covered city
252 small property;
253 (b) The net lessee in the case of a property subject to a triple net lease;
254 (c) The board of managers in the case of a condominium;
255 (d) The board of directors in the case of a cooperative apartment corporation; or
256 (e) An agent authorized to act on behalf of any of the above.

257
258 (23) “Qualified Benchmarker” means an individual or entity that possesses a
259 benchmarking certification or other credential or credentials approved by the director.
260 Qualified Benchmarkers include Registered Architects (RAs), Professional Engineers
261 (PEs) licensed in the State of Florida, Certified Energy Managers (CEM), Certified
262 Facilities Managers (CFMs), Building Energy Audits Professionals (BEAPs), Individuals
263 with a Certificate of Proficiency of Benchmarking (CPB), Real Property Administrators
264 (RPAs), Facilities Management Administrators (FMAs), System Maintenance
265 Administrators (SMAs), System Maintenance Technicians (SMTs), High Performance
266 Managers (HPMs), Certified Healthcare Facility Managers (CHFMs), Certified Plant
267 Maintenance Managers (CPMMs), or designated staff with at least three years of
268 professional experience performing benchmarking and energy audits on similar types of
269 buildings, or additional credentials approved by the director.

270
271 (24) “Retro-commissioning” means a systematic process for optimizing the energy
272 efficiency of existing base building systems through the identification and correction of
273 deficiencies in such systems, including, but not limited to, repairs of defects, cleaning,
274 adjustments of valves, sensors, controls or programmed settings, and/or changes in
275 operational practices.

276
277 (25) “Retro-commissioning measure” means a correction that has been identified during
278 the analysis phase of retro-commissioning.

279
280 (26) “Retro-commissioning professional” means an individual or hired contractor, who
281 shall not be on the staff of the property being retro-commissioned, authorized by the
282 office to certify retro-commissioning reports required by this ordinance. Until such time
283 as there is a U.S. Department of Energy (“DOE”)-recognized standard establishing
284 qualifications for persons who perform retro-commissioning and such standard has been
285 adopted by the office, a retro-commissioning professional or member(s) of the team
286 such professional supervises shall have such qualifications or certifications as
287 determined by the office. After the establishment of such a DOE-recognized standard,
288 the office may adopt the qualifications of the DOE-recognized standard with such
289 modifications as the office deems to be appropriate.

290
291 (27) “Retro-commissioning report” means the final document produced by the retro-
292 commissioning professional including, but not limited to.:

- 293
294 (a) Summary retro-commissioning report;

ORDINANCE NO. 2016-64

- 295 (b) Benchmarking output;
296 (c) List of repairs completed during investigation;
297 (d) List of deficiencies corrected, including, for each deficiency, the date of the
298 correction, by whom the correction was made, the actual cost, projected
299 annual savings, the net present value, and simple payback for each
300 measure;
301 (e) Testing protocol, including a list of all equipment types tested, a list of the
302 sample rates (percent of each type of equipment tested) for each equipment
303 type tested, the testing methodology, including any diagnostic equipment
304 used, the test results, and a list of integrated system testing performed; and
305 (f) Master list of findings, including for each, the name of the retro-
306 commissioning measure, a brief description of the measure, recommended
307 corrections, the benefits attained, estimated annual savings (energy and
308 cost), the estimated implementation cost, the net present value, and the
309 simple payback.
310

311 (28) "Shared benchmarking information" means information generated by the
312 benchmarking tool and descriptive information about the physical property and its
313 operational characteristics that is shared with the public. The information, as defined by
314 ENERGY STAR Portfolio Manager's glossary, must include, but is not limited to:
315

- 316 (a) Descriptive information
317 1. Property address;
318 2. Primary use type;
319 3. Gross floor area;
320 (b) Output information
321 1. Site energy use intensity (Site EUI);
322 2. Weather normalized source energy use intensity (Source EUI);
323 3. Total annual greenhouse gas emissions;
324 4. The ENERGY STAR score, where available; and
325 (c) Compliance or noncompliance with this ordinance.
326

327 (29) "Space" means an area within a building enclosed by floor to ceiling walls,
328 partitions, windows and doors.
329

330 (30) "Substantial improvement" means any repair, reconstruction, rehabilitation,
331 addition, or improvement of a property, the cost of which equals or exceeds 50 percent
332 of the market value of the property before the improvement or repair is started.
333

334 (31) "Summary audit report" means the abbreviated report certified by the energy auditor
335 on a form determined by the office that shall include at a minimum:
336

- 337 (a) Information on the energy auditor and his/her team;
338 (b) The date the audit was completed;
339 (c) Property information (such as building address, building age, gross floor area
340 as defined by ENERGY STAR Portfolio Manager's glossary, number of
341 buildings on the property, year of major renovation or remodel, etc.);
342 (d) Building ID number, as referenced in the benchmarking submission;
343 (e) The building's benchmarking submission for the previous calendar year
344 consistent with the United States Environmental Protection Agency (EPA)

ORDINANCE NO. 2016-64

Portfolio Manager tool or as otherwise established by the office;

(32) "Summary retro-commissioning report" means the abbreviated report certified by the retro-commissioning professional on a form determined by the office that shall include at a minimum:

- (a) Retro-commissioning team information;
- (b) The date the retro-commissioning was completed;
- (c) Property information (such as building address, building age, gross floor area as defined by ENERGY STAR Portfolio Manager's glossary, number of buildings on the property, etc.);
- (d) Building staff information;
- (e) List of repairs or modifications completed during investigation

(33) "System" or "subsystem" means a building assembly made up of various components that serve a specific function including but not limited to exterior walls, windows, doors, roofs, ceilings, floors, lighting, piping, ductwork, insulation, HVAC system equipment or components, electrical appliances and plumbing appliances.

(34) "Tenant" means a person or entity occupying or holding possession of a building, part of a building or premises pursuant to a rental or lease agreement.

(35) "Theme park" means an entertainment or resort complex comprised of at least 25 acres of land with permanent exhibitions and a variety of recreational activities, which has at least 1 million visitors annually, together with any dining and recreational facilities located adjacent to, contiguous to, or in close proximity to the theme park, as long as the owners or operators of the theme park, or a parent or related company or subsidiary thereof, has an equity interest in the dining or recreational facilities or is in privity therewith. Close proximity include an area within a 5-mile radius of the theme park complex. Excluded from this definition are (a) hotels, and (b) those administrative buildings, office buildings, and warehouses that support the theme park and its operations but are not typically open to theme park visitors..

(36) "Utility" means an entity that distributes and sells natural gas, electric, water, or thermal energy services for buildings.

Section 15.03. Benchmarking requirements.

(1) No later than May 1, 2017, and no later than every May 1 each year thereafter, each covered city property shall benchmark energy use for the previous calendar year by the entity primarily responsible for the management of such property, in coordination with the director. However, benchmarking is not required for a covered city property, if:

- (a) the property does not have a certificate of occupancy or temporary certificate of occupancy for the full calendar year being benchmarked, or
- (b) full demolition permit has been issued during the previous calendar year, provided that demolition work has commenced, some energy-related systems have been compromised and legal occupancy is no longer possible prior to May 1, or

ORDINANCE NO. 2016-64

395 (c) the property does not receive utility services.
396

397 (2) No later than May 1, 2018, and no later than every May 1 each year thereafter,
398 the owner of a covered non-city property shall benchmark energy use of such
399 property for the previous calendar year. However, benchmarking is not required for a
400 covered non-city property, if:

- 401
- 402 (a) it meets any of the exemptions defined for a covered city property; or
 - 403 (b) the director determines that, due to special circumstances unique to the
404 applicant's facility and not based on a condition caused by actions of the
405 applicant, strict compliance with provisions of this ordinance would cause
406 undue hardship or would not be in the public interest; or
 - 407 (c) the property qualifies as having a financial hardship; or
 - 408 (d) the property is considered "industry," "manufacturing," or is part of a theme
409 park; or
 - 410 (e) substantially all of such non-city property is used for telecommunications
411 infrastructure; or
 - 412 (f) more than 3 meters are associated with the covered non-city property, and,
413 (i) the electric utility does not provide whole-building data aggregation
414 services, and,
415 (ii) the owner does not have access to master meters or other means.
416 Once such services are available from the utility, as determined by the office,
417 such buildings will no longer be exempt from benchmarking requirements,
418 and such buildings shall file initial benchmarking reports in the year following
419 such data availability according to the schedule established in this part.

420

421 Any entity or owner requesting an exemption from benchmarking shall provide the
422 director, by February 1 in the year for which the exemption is requested, any
423 documentation reasonably necessary to substantiate the request or otherwise assist
424 the director in the exemption determination. Any exemption granted shall be limited
425 to the benchmarking submission date for which the request was made and does not
426 extend to past or future submittals.

427

428 (3) The owner shall annually provide a benchmarking submission for each covered
429 property to the director, in an electronic format through U.S. EPA ENERGY STAR
430 Portfolio Manager, or as established by the director, by the date specified in this Part.

431

432 (4) Benchmarking must be performed by a "Qualified Benchmarker", who shall enter
433 such information into the benchmarking tool as a "Unique Identifier" for such property
434 in order to verify that they possess the required qualifications.

435

436 (5) Before making a benchmarking submission, the Qualified Benchmarker shall run all
437 automated data quality-checker functions available within the benchmarking tool, and
438 shall correct all missing or incorrect information identified.

439

440 (6) Where the current owner learns that any information reported as part of the
441 benchmarking submission is inaccurate or incomplete, the information so reported
442 must be amended in the benchmarking tool by Qualified Benchmarker, and the

ORDINANCE NO. 2016-64

owner shall provide the director with an updated benchmarking submission performed by a Qualified Benchmarker within 30 days of learning of the inaccuracy.

Section 15.04. Benchmarking data collection and input.

An owner shall direct a Qualified Benchmarker to enter data into the Benchmarking Tool, in a manner generally as follows:

(a) Whenever possible, owners should benchmark their building(s) using whole-property utility data:

- i. Whole-property utility data can be obtained by a utility company; or by receiving data from all tenants, from master meters; or
- ii. If a utility company has made aggregated utility data available to owners before the reporting date of that calendar year, then an owner must benchmark using whole-property utility data for that utility.

(b) When an owner does not have whole-property information sufficient to fulfill these requirements and has made a reasonable effort to obtain from a tenant the information required, but that information has not been received from that tenant, the owner shall not be relieved of their benchmarking obligations, and must complete benchmarking using such alternate default values as provided by the then-existing US EPA Energy Star program. The director and Energy & Green Buildings subcommittee shall evaluate the quality of any alternate values and propose options that increase the quality of such values prior to December 31, 2018, and not less than once every 10 years thereafter.

Section 15.05. Sharing and analysis of benchmarking information.

(1) The director shall make available to the public on the internet the shared benchmarking information for the previous calendar year according to the following schedule:

- (a) For each covered city property, no later than September 1, 2018, and each September 1 thereafter; and
- (b) For each covered non-city property, no later than September 1, 2019, and each September 1 thereafter.

(2) Below is a summary table of the first compliance dates:

| | <u>Notification of Benchmarking Requirement by the City</u> | <u>Required Benchmarking and Reporting by the Owner</u> | <u>Transparency of Benchmarking Output Information issued by the City</u> |
|------------------------------|---|---|---|
| <u>Covered city property</u> | <u>December 1, 2016</u> | <u>May 1, 2017</u> | <u>September 1, 2018</u> |

ORDINANCE NO. 2016-64

| | | | |
|----------------------------------|-------------------------|--------------------|--------------------------|
| | | | |
| <u>Covered non-city property</u> | <u>December 1, 2017</u> | <u>May 1, 2018</u> | <u>September 1, 2019</u> |

483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525

(3) The city may provide non-anonymized data from benchmarking submissions to any utility serving a covered building or to any federal, state, or city-managed energy efficiency program, provided that the data will be used only for purposes of targeting incentives provided through energy efficiency programs, and provided that the city has first obtained the covered building owner's written or electronic permission to share the data with the utility or energy efficiency program. Where the building owner's permission can be granted electronically through acceptance of a default option, the city shall provide a clearly delineated option for owners of covered buildings to choose to opt out of granting this permission.

Section 15.06. Notification by the city for benchmarking requirements.

- (1) By December 1 of each year that benchmarking requirements are in effect, the director shall publicly post on the City website a list of all covered properties that must provide a benchmarking submission to the director by the appropriate submission date in the following year.
- (2) Such notification may occur electronically via a posting to the office website and/or by direct mail. Failure to provide such notification shall not relieve the property owner of the requirement to comply with the benchmarking and other requirements of this ordinance.

Section 15.07. Providing benchmarking information to the property owner.

- (1) The owner of a covered property shall make all reasonable efforts to ensure the tenants within the covered property provide all information that cannot otherwise be acquired by the owner and that is needed by the owner to comply with the requirements of this ordinance.
- (2) When the owner of a covered property receives notice that a nonresidential tenant is vacating a space, such owner shall request information relating to such tenant's energy use for any period of occupancy relevant to the owner's obligation to benchmark, but only if the utility does not provide this information through whole-building utility data. The landlord of such premises shall make all reasonable efforts to obtain energy use data from the vacating tenants within 30 days of the notice to vacate.
- (3) When a covered property changes ownership, the previous owner must provide the new owner all information for the months of the calendar year being benchmarked during the time the previous owner was still in possession of the property.

ORDINANCE NO. 2016-64

- 526 (4) Where the owner is unable to benchmark due to the failure of a utility and/or any
527 or all nonresidential tenants to report the information required by this ordinance,
528 the owner shall complete benchmarking requirement using such alternate default
529 values as established by the then-existing US EPA Energy Star program.
530

531 **Section 15.08. Energy audit requirements.**
532

- 533 (1) The owner of a covered property shall ensure that an energy audit or a retro-
534 commissioning is performed on the base building systems of such property. In
535 addition, an energy audit or retro-commissioning report must be generated, and a
536 summary audit or retro-commissioning report must be filed with the office in
537 accordance with the scheduling requirements below in section 15.09.
538
539 (2) An energy audit or retro-commissioning shall be performed by or under the
540 supervision of an energy auditor or retro-commissioning professional. The audit
541 process shall cover the base building systems and shall identify at a minimum all
542 items defined in the audit or retro-commissioning report. The retro-commissioning
543 process shall be performed in accordance with "ANSI/ASHRAE Standard 202-2013
544 - Commissioning Process for Buildings and Systems"
545
546 (3) Nothing in this ordinance shall prevent an owner from performing an energy audit
547 and retro-commissioning in a combined process, provided that all the requirements
548 applicable to this ordinance are met.
549
550 (4) An energy audit or retro-commissioning is not required if any of the following are met:
551
552 (a) The property is exempt from benchmarking pursuant to section 15.03.
553 (b) The property provides evidence of financial hardship or has received a demolition
554 permit within the previous year.
555 (c) The property has received an official ENERGY STAR benchmark score at or
556 above 50.
557 (d) If there is no ENERGY STAR 1-100 score for the building type, a registered
558 design professional shall submit documentation, as specified in rules promulgated by
559 the director, that the property's energy use intensity (EUI) is equivalent to or better
560 than the median performance of all covered buildings of its type.
561 (e) The covered property is currently certified under the Florida Green Lodging
562 program, or LEED 2009 rating system for Existing Buildings or Operation and
563 Maintenance: Existing Buildings Version 4 rating system, or future iterations of LEED
564 published by the USGBC, or other comparable rating systems for existing buildings
565 (e.g. Green Globes) as determined by the director.
566 (f) The covered property shows energy use improvement in their ENERGY STAR
567 score by 10 points, or 15% or greater in equivalent EUI based on the median
568 performance of all covered buildings of its type. This improvement will be compared
569 to the baseline year that required the energy audit or retro-commissioning
570 requirement. This exemption must be verified by a certified by an energy auditor or a
571 retro-commissioning professional.
572 (g) The covered property is subject to continuous commissioning, provided the
573 property owner attests to compliance with all criteria set forth in the rules
574 promulgated by the office.
575

ORDINANCE NO. 2016-64

576 (5) For properties qualifying for exemptions under subsection 15.08(4), the owner shall
577 file documentation, in such form and with such certifications as required by the office,
578 establishing that the property qualifies for such an exemption.

579
580 **Section 15.09. Due dates for summary audit or retro-commissioning reports and**
581 **extensions of time.**

582
583 Starting in 2020, the owner of a covered property that receives an ENERGY STAR score
584 under 50, or equivalent EUI, is required to perform an energy audit, or a retro-
585 commissioning, according to section 15.08, and shall file a summary audit or retro-
586 commissioning report for such property no later than May 2025, and then once every five
587 years thereafter.

588
589 By February 1 of the applicable year, an owner may apply for an extension of time to file
590 a summary audit or retro-commissioning report if, despite such owner's good faith
591 efforts, to be documented in such application, the owner is unable to complete the
592 required audit or retro-commissioning prior to the scheduled due date for such report.
593 The director may grant one such extension for up to one year. Extensions granted
594 pursuant to this provision shall not extend the scheduled due dates for subsequent
595 summary audit reports.

596
597 An owner may receive annual extensions of time to file a summary audit or retro-
598 commissioning report based on financial hardship of the property.

599
600 **Section 15.10. Notification by the city of energy auditing requirements.**

601
602 (1) Starting in December 2020, and no later than every December 1 each year
603 thereafter, following the benchmarking submission requirements, the director shall
604 notify the owner of a covered property that receives an ENERGY STAR score under
605 50, or equivalent EUI, that he or she must perform an energy audit or a retro-
606 commissioning, and that he or she must file a summary audit or retro-commissioning
607 report for such property no later than May 2025.

608
609 (2) The director shall also notify the owner of the requirements of this section no less
610 than one year prior to the calendar year in which the covered property's summary
611 audit or retro-commissioning report is due and again in the calendar year in which
612 such reports are due.

613
614 (3) Such notification may occur electronically via a posting to the office's website and
615 failure to provide such notification shall not relieve the property owner of the
616 requirement to comply with the applicable requirements of this ordinance.

617
618 (4) Below is a summary table of the first compliance dates:

| | <u>Notification of Energy Audit Requirement by the City</u> | <u>Due Date for 1st Energy Audit report by the Owner</u> |
|--|---|---|
|--|---|---|

ORDINANCE NO. 2016-64

| | | |
|----------------------------------|-------------------------|--------------------|
| <u>Covered city property</u> | <u>December 1, 2020</u> | <u>May 1, 2025</u> |
| <u>Covered non-city property</u> | <u>December 1, 2020</u> | <u>May 1, 2025</u> |

620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659

Section 15.11. Annual benchmarking and energy audit report and analysis

- (1) The director shall make available to the public on the City of Orlando website, and update at least annually, the following information:
- (a) No later than December 1, 2018, and each December 1 thereafter, a report on the benchmarking of covered city properties, including an assessment of accuracy and issues affecting accuracy, summary energy consumption statistics, and trends observed, including an assessment of changes across the portfolio over time, and
 - (b) No later than December 1, 2019, and each December 1 thereafter, a report on the benchmarking of all covered properties, including an assessment of compliance rates, an assessment of accuracy and issues affecting accuracy, summary energy consumption statistics, and trends observed, including an assessment of changes across the portfolio over time.
- (2) Beginning in 2025 and then again every year thereafter, the director shall make public on the City of Orlando website a report on the progress of auditing for all covered properties, including but not limited to, compliance rates, trends observed, correlations of benchmarking scores and recommended measures, the impact of audits on EUI's and ENERGY STAR Scores before and after, and recommendations on how the audit implementation could be improved or the uptake of energy conservation measures increased.
- (3) Nothing in this ordinance shall prevent the director from including such information in an annual energy efficiency report covering the progress of all the city's energy efficiency ordinances and programs.

Section 15.12. Maintenance records of benchmarking, auditing, and retro-Commissioning.

- (1) Building owners shall maintain records as the director determines is reasonably necessary for carrying out the purposes of this ordinance, including but not limited to the energy bills and reports or forms received from tenants and/or utilities. Such records shall be preserved for a period of at least three years and at all times may be kept in electronic form. At the request of the director, such records shall be made available for inspection and audit by the director.

- 660
661 (2) Property owners shall maintain a copy of the energy audit or retro-commissioning
662 report, and summary audit or retro-commissioning report, on-site for a minimum of
663 five years from the required submission date and at all times may be kept in
664 electronic form. At the request of the director, such reports shall be made available
665 for inspection.

666
667 **Section 15.13. Violations and enforcement.**

- 668
669 (1) Notwithstanding anything in this Code to the contrary, violations of this Part are
670 punishable only in accordance with this section.
671
672 (2) A covered property that successfully complies with the benchmarking requirements
673 in this Part shall be publicly posted on the City's website (as described in section
674 15.11) as "participating."
675
676 (3) A covered property that is exempt from benchmarking pursuant to this Part shall be
677 publicly posted on the City's website (as described in section 15.11) as "exempt."
678
679 (4) A covered property that fails to comply with the benchmarking requirements in this
680 Part shall be publicly posted on the City's website (as described in section 15.11)
681 as "eligible and not participating."
682
683 (5) A non-covered property that successfully complies with the benchmarking
684 requirements in this Part shall be publicly posted on the City's website (as described
685 in section 15.11) as "voluntarily participating."
686
687 (6) The director shall implement a suitable annual award and recognition for excellence
688 in energy benchmarking.

689
690 **Section 15.14. Appeals.**

691
692 This Part shall be implemented by the director. In cases of uncertainty, or where the
693 application of this Part to any particular person requires an interpretation of this Part,
694 the director shall be responsible for such interpretation⁷¹. Upon written request of an
695 applicant, the director shall render a written determination on any question of
696 implementation or interpretation. Applicants may appeal written determinations of the
697 director to the city's chief administrative officer. A notice of appeal must be filed with the
698 chief administrative officer within 15 days of the director's determination. The chief
699 administrative officer shall hold a hearing on the appeal within 20 days of the notice of
700 appeal and he or she may consider any probative evidence provided by the applicant or
701 the director. The chief administrative officer should give substantial deference to the
702 determinations of the director and shall render a final decision within 15 days of the
703 hearing. The decision of the chief administrative officer is hereby made the city's final
704 agency action on the applicant's request for a determination.

705
706 **Sec. 15.15. Energy and Green Building Subcommittee.**

ORDINANCE NO. 2016-64

708 There is hereby established a subcommittee of the city's Green Works Advisory
709 Committee to be known as the "Energy and Green Building Subcommittee". The
710 subcommittee is hereby constituted as and shall undertake its work as a "Community
711 Panel" pursuant to City of Orlando Policy and Procedure 161.4. A minimum of 5
712 members of the subcommittee shall be appointed by and serve at the pleasure of the
713 mayor. The primary purpose of the subcommittee is to provide advice to the director in
714 the implementation of this Part and to review proposed rules or policies of the director in
715 the implementation of this Part. Before promulgating any rule or policy in the
716 implementation of this Part, the director shall provide the proposed rule or policy to the
717 subcommittee for review and comment for at least 30 days.

718
719 The Mayor shall appoint the members of the Energy & Green Building subcommittee
720 that represent the following real estate sectors, but not limited to:

- 721
722 a. Commercial / Office
723 b. Hospitality
724 c. Retail
725 d. Multifamily/Residential
726 e. Health care and hospitals
727 f. Warehouse

728
729 **Sec 15.16 Power to Suspend**

730
731 The Council may suspend all or part of the requirements of this ordinance upon written
732 findings that a significant obstacle interferes with the implementation, and may lift such
733 suspension upon written finding that the obstacle has been removed.

734
735
736
737 **SECTION 3. SEVERABILITY.** If any provision of this ordinance or its
738 application to any person or circumstance is held invalid, the invalidity does not affect
739 other provisions or applications of this ordinance which can be given effect without the
740 invalid provision or application, and to this end the provisions of this ordinance are
741 severable.

742
743 **SECTION 4. CODIFICATION.** The City Clerk and the City Attorney shall cause
744 the Code of the City of Orlando, Florida to be amended as provided by this ordinance
745 and may renumber, reletter, and rearrange the codified parts of this ordinance, if
746 necessary, to facilitate these changes.

747
748 **SECTION 5. SCRIVENER'S ERROR.** The City Attorney may correct scrivener's
749 errors found in this ordinance by filing a corrected copy of this ordinance with the City
750 Clerk.

751
752 **SECTION 6. EFFECTIVE DATE.** This ordinance takes effect immediately upon
753 final passage.

754
755 **DONE, THE FIRST READING,** by the City Council of the City of Orlando,
756 Florida, at a regular meeting, this _____ day of _____, 2016.

757

ORDINANCE NO. 2016-64

758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Orlando, Florida, by the City Clerk of the City of Orlando, Florida, this _____ day of _____, 2016.

DONE, THE SECOND READING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of a majority of a quorum present of the City Council of the City of Orlando, Florida, at a regular meeting, this _____ day of _____, 2016.

BY THE MAYOR/MAYOR PRO TEMPORE OF
THE CITY OF ORLANDO, FLORIDA:

Mayor / Mayor Pro Tempore

ATTEST, BY THE CLERK OF THE
CITY COUNCIL OF THE CITY OF
ORLANDO, FLORIDA:

Amy Iennaco, Interim City Clerk

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
CITY OF ORLANDO, FLORIDA:

City Attorney

[Remainder of page intentionally left blank.]