

# CITY OF CHICAGO

## RULES



### **BUILDING ENERGY USE BENCHMARKING RULES**



Mayor Rahm Emanuel

Commissioner Rosa Escareno

BY AUTHORITY VESTED IN THE COMMISSIONER OF THE DEPARTMENT OF BUSINESS AFFAIRS AND CONSUMER PROTECTION PURSUANT TO CHAPTERS 2-25 AND 18-14 OF THE MUNICIPAL CODE OF CHICAGO, THE BUILDING ENERGY USE BENCHMARKING RULES, WHICH WERE PUBLISHED AND BECAME EFFECTIVE ON JUNE 1, 2014, ARE HERE BY AMEDED AND REISSUED, AS FOLLOWS:

By Order of the Commissioner:

Signed: \_\_\_\_\_



Date: \_\_\_\_\_

2/4/19

Commissioner Rosa Escareno

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(THESE UPDATED BUILDING ENERGY USE BENCHMARKING RULES SUPERSEDE THE BUILDING ENERGY USE BENCHMARKING RULES WHICH WERE PUBLISHED AND BECAME EFFECTIVE ON JUNE 1, 2014)

# BUILDING ENERGY USE BENCHMARKING RULES

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## DEFINITIONS

**“Chicago Energy Benchmarking Guidance”** means instructional materials published by the City of Chicago to help covered buildings comply with the Ordinance. These materials are available on the City of Chicago Energy Benchmarking Website.

**“Commissioner”** has the meaning ascribed to the term in Section 18-14-101.3 of the Ordinance.

**“Covered Building”** has the meaning ascribed to the term in Section 18-14-101.3 of the Ordinance.

**“Chicago Energy Benchmarking Help Center”** refers to telephone and email support resources for specific questions about compliance with the Ordinance. Contact information for the Help Center is available on the City of Chicago Energy Benchmarking Website.

**“City of Chicago Energy Benchmarking Website”** means the URL <http://www.cityofchicago.org/energybenchmarking>, or any successor website published by the Department to convey information about the Ordinance and rules promulgated thereunder.

**“City of Chicago Energy Rating Website”** means the URL [www.ChicagoEnergyRating.org](http://www.ChicagoEnergyRating.org), or any successor website published by the Department to convey information about the energy performance rating system established by the Ordinance.

**“Energy Rating Card”** means a placard issued by the Commissioner indicating a covered building’s current energy performance rating.

**“Data Verification”** refers to the process of reviewing a building’s energy consumption, property use details, and other information required by the Benchmarking Tool and attesting to the accuracy of that information.

**“Department”** refers to the Chicago Department of Business Affairs and Consumer Protection and its designees tasked with implementation of the Ordinance and the rules promulgated thereunder.

**“Licensed Professional”** has the meaning ascribed to the term in Section 18-14-101.3 of the Ordinance.

**“ENERGY STAR Portfolio Manager”** has the meaning ascribed to the term “Benchmarking Tool” in Section 18-14-101.3 of the Ordinance.

**“ENERGY STAR Portfolio Manager Guidance”** means instructions provided by the United States Environmental Protection Agency for using ENERGY STAR Portfolio Manager software.

**“Energy Use Intensity” or “EUI”** has the meaning ascribed to the term in Section 18-14-101.3 of the Ordinance.

**“National Peer Dataset”** means the most up-to-date Commercial Buildings Energy Consumption Survey dataset maintained by the United States Energy Information Administration or similar survey datasets used by the U.S. Environmental Protection Agency to provide benchmarking information in the U.S. ENERGY STAR Portfolio Manager tool.

**“Owner”** means any person who alone, jointly or severally with others:

- a. Shall have legal title to any premises, or dwelling units, with or without accompanying actual possession thereof; or
- b. Shall have charge, care or control of any premises, dwelling or dwelling unit as owner or agent of the owner, or an executor, administrator, trustee, or guardian of the estate of the owner.
- c. “Owner” includes the owner, his agent for the purpose of managing, controlling or collecting rents, any other person managing or controlling a building or premises or any part thereof and any person entitled to the control or direction of the management or disposition of a building or premises or of any part thereof.

**“Ordinance”** means Chapter 18-14 of the Municipal Code of Chicago, as amended, included here as Appendix A for informational purposes.

# ARTICLE I

## SECTION I. Identification of Covered Buildings

### Rule 1.01

a.) Pursuant to Section 18-14-101.3, the Ordinance covers municipal, commercial, and residential buildings that are 50,000 square feet or larger, with initial compliance deadlines based on size and occupancy.

b.) *Building size* refers to gross square footage, as defined by Section 18-14-101.3 of the Ordinance.

Gross square footage is *not* the same as rentable or leasable area, but rather includes all area inside the building. Rentable or leasable space is a sub-set of gross square footage.

In the case where there is an atrium, building Owners should count the gross square footage at the base level only.

Gross square footage should not include any exterior spaces such as balconies, exterior loading docks, or driveways.

c.) *Building occupancy* is determined by how space is used within a building. Specific occupancy uses covered by the Ordinance are described in Section 18-14-101.3 of the ordinance.

Common building occupancy uses covered by the Ordinance include, but are not limited to, commercial office, residential (including condominiums, apartment buildings, and cooperatives), hospitals and other health care facilities, schools, universities and other educational facilities, retail space (including shopping malls), museums and other cultural institutions, worship spaces, banks, entertainment centers, restaurants, and other personal services facilities.

Non-covered occupancy uses are described in Section 18-14-101.3 of the Ordinance.

### Rule 1.02

*Responsible Parties:* The Ordinance applies to Owners of Covered Buildings, as defined in Section 18-14-101.3 of the Ordinance. This definition includes, but is not limited to, legal title holders, managers, and their agents.

### Rule 1.03

a.) *Transfers of Ownership:* Except as otherwise provided in Section 18-14-102.1 (c) (iv) of the Ordinance, if a Covered Building changes ownership, the new Owner shall be responsible for benchmarking such building.

b.) *Information Sharing:* At the time of transfer of ownership of a Covered Building, the buyer and seller may arrange for the seller to provide to the buyer all information necessary for the buyer to benchmark the building, as well as all benchmarking records described in Rule 8.01.

Rule 1.04 a.) *Identification of Covered Buildings*: The Department may use multiple information sources to identify Covered Buildings, based on size and occupancy use. The Commissioner may create a list of Covered Buildings for purposes of making such list available to the public. The Department may also notify Owners of their Covered Buildings' status or designation, as determined by the Commissioner.

b.) *Obligation to Comply*: Lack of notification by the Department does not relieve the Owner of a Covered Building of the obligation to comply with the Ordinance. No owner, however, will be cited in violation of the Ordinance without prior notification, as described in Section X of these Rules.

Rule 1.05 *Chicago Energy Benchmarking Identification Number (ID)*: The Department will assign a unique building identification number to each designated Covered Building to facilitate annual reporting of benchmarking data. Owners of Covered Buildings shall include this Chicago Energy Benchmarking ID in their buildings' ENERGY STAR Portfolio Manager profiles, according to Chicago Energy Benchmarking Guidance and ENERGY STAR Portfolio Manager Guidance.

However, the Owner of a Covered Building that has not received a Chicago Energy Benchmarking identification number is not relieved of the obligation to comply with the Ordinance. Such Owners may request a Chicago Energy Benchmarking ID through the process described in Rule 1.06.

Rule 1.06 *Requesting a Change of Building Designation*: If a building Owner does not agree with that building's designation as a Covered Building, the Owner may request a change in that building's covered status or other designation by submitting information and relevant evidence, using a form prescribed by the Department. The Department may revise a building's covered status or other designation based on the information provided by the Owner. Support resources for requesting a change of a building's designation, along with other Ordinance compliance resources or clarifications, may be facilitated by the Chicago Energy Benchmarking Help Center.

## **SECTION II. Mixed Use, Shared Systems, Shared Property Identification Numbers (PINs), and Other Special Cases**

Rule 2.01 *General*: Due to variation in the configuration, systems, and ownership structures of some Covered Buildings, consideration may be given to the "special cases" outlined below to facilitate compliance with the Ordinance.

Rule 2.02 *Mixed-Use Buildings*: Owners of Covered Buildings with mixed occupancy use shall benchmark, verify, and report in the same manner as Covered Buildings with single occupancy use, as described in Section IV of these Rules, according to ENERGY STAR Portfolio Manager Guidance and Chicago Energy Benchmarking Guidance.

- Rule 2.03      *Multiple Buildings with Shared Systems:* Owners of multiple Covered Buildings that share one or more energy-consuming systems or energy accounts, where energy use is not metered separately or sub-metered for one or more energy types, may benchmark, verify, and report as a single property, according to ENERGY STAR Portfolio Manager Guidance and Chicago Energy Benchmarking Guidance. This rule applies to Covered Buildings with the same or multiple Property Identification or Index Numbers (PIN).
- Rule 2.04      *Multiple Buildings with the Same Property Identification or Index Number (PIN) and Separate Systems:* The Owner of multiple Covered Buildings that share the same PIN, have separate energy-consuming systems, and are metered separately or sub-metered for all energy types (such as university, corporate, or other campuses where multiple Covered Buildings of various sizes share the same PIN) shall benchmark, verify, and report energy use separately for each building that is larger than 50,000 square feet, according to ENERGY STAR Portfolio Manager Guidance and Chicago Energy Benchmarking Guidance, and according to the compliance timeline described in Rule 3.01.
- The Owner of such Covered Buildings may request unique Chicago Energy Benchmarking IDs for each separately benchmarked building through the process described in Rule 1.06.
- Rule 2.05      *Single Buildings with Multiple Property Identification or Index Numbers (PIN):* The Owner or Owners of a single Covered Building with multiple PINs, including condominiums, shall benchmark, verify, and report energy use for the entire building, according to ENERGY STAR Portfolio Manager Guidance and Chicago Energy Benchmarking Guidance.
- Rule 2.06      *Buildings That Are Not Currently Eligible to Receive Energy Star Scores:* Owners of covered buildings that are not currently eligible to receive ENERGY STAR scores shall benchmark according to ENERGY STAR Portfolio Manager Guidance. The Benchmarking Tool enables Owners to calculate other relevant energy metrics, such as weather-normalized energy use intensity.
- Rule 2.07      *Notification to the Department of Special Cases:* To enable tracking of Covered Buildings with shared systems, shared Property Identification Numbers (PINs), and other special cases, the Owners of such buildings shall notify such special cases to the Department through the process described in Rule 1.06.



## SECTION III

### Compliance Timing

#### Rule 3.01

a.) *Benchmarking and Reporting Deadlines:* Pursuant to Section 18-14-102.1 and Section 18-14-102.3 of the Ordinance, benchmarking and reporting deadlines are follows:

- i. June 1, 2014 (and each June 1<sup>st</sup> thereafter): Commercial and municipal buildings of 250,000 square feet or larger;
- ii. June 1, 2015 (and each June 1<sup>st</sup> thereafter): Commercial and municipal buildings 50,000 square feet or larger, and residential buildings 250,000 square feet or larger;
- iii. June 1, 2016 (and each June 1<sup>st</sup> thereafter): Residential buildings 50,000 square feet or larger.

Pursuant to Section 18-14-102.1 of the Ordinance, the Owner of a Covered Building with 10 percent or more of its gross square footage used for residential occupancy shall comply with the residential building deadlines.

b.) *Data Verification Deadlines:* Pursuant to Section 18-14-102.2 of the Ordinance, Covered Building Data Verification must be conducted prior to the first benchmarking deadline prescribed by Section 18-14-102.1 and prior to each third benchmarking deadline thereafter (refer to Rule 3.01 for benchmarking deadlines by building size and occupancy).

c.) *Time Period of Benchmarking:* Pursuant to Section 18-14-102.1 the Owner of a Covered Building shall benchmark, verify, and report data from January 1<sup>st</sup> to December 31<sup>st</sup> of the calendar year prior to that in which these activities are required.

d.) Time period for compliance with energy performance rating requirements:

(1) The Commissioner shall designate energy performance ratings for covered buildings annually beginning in 2019 as provided in Section 18-14-102.3(c) of the Ordinance.

(2) The first energy performance rating designation shall be based on the benchmarking report for the calendar year 2018, which shall be reported no later than June 1<sup>st</sup> of 2019.

(3) The Commissioner shall not make public the energy performance rating designation of a covered building until six months after the first rating is assigned to such building. The Commissioner may make public a covered building's subsequent energy performance rating designations at any time after such designation.

(4) The Commissioner shall not provide a covered building's energy rating card until six months after the first energy performance rating is assigned to such building. The Commissioner may provide a covered building's

subsequent energy rating card at any time after energy performance rating is assigned to such building.

Rule 3.02

*If the Benchmarking Tool is Unavailable:* If the ENERGY STAR Portfolio Manager software is unavailable for use for a time period or duration that materially impacts the Owner of a Covered Building's ability to meet compliance deadlines, the Department may temporarily extend those deadlines to enable compliance.

## SECTION IV

### **Benchmarking and Scoring Requirements**

Rule 4.01

a.) *General:* No later than June 1<sup>st</sup> in the years in which the Owner of a Covered Building is required by the Ordinance to benchmark, Covered Building Owners or their representatives must input the building's total energy consumption data for all energy sources and other building information for January 1<sup>st</sup> through December 31<sup>st</sup> of the previous calendar year.

b.) *Benchmarking Using ENERGY STAR Portfolio Manager:* The Ordinance requires the Owners of Covered Buildings to use ENERGY STAR Portfolio Manager to benchmark and submit building data, as required by the software. ENERGY STAR Portfolio Manager software is free and available to the public at the website <http://www.energystar.gov/portfoliomanager>.

Unless explicitly directed otherwise, the Owners of Covered Buildings shall follow all ENERGY STAR Portfolio Manager Guidance. This includes inputting into ENERGY STAR Portfolio Manager all requested whole-building energy use data and requested details on specific property uses.

Owners of Covered Buildings are *not* required to track, verify, or report any financial or cost-related data, though Covered Buildings may choose to do so, according to ENERGY STAR Portfolio Manager guidance.

Rule 4.02

a.) *Whole-Building Energy Use Data:* ENERGY STAR Portfolio Manager requires whole-building energy use data. Owners of Covered Buildings may obtain this energy use data through several sources, including: energy utility bills, energy utility data aggregation services, or (when other sources are unavailable) tenants or other occupants of spaces within the Covered Building.

Whole-building energy use data includes energy generated on-site that is used within the building, including renewable energy, according to ENERGY STAR Portfolio Manager Guidance. Source energy and greenhouse gas emission metrics within ENERGY STAR Portfolio Manager will reflect the benefits associated with onsite renewable energy.

b.) *Exempted Energy Use for Ancillary Building Activities:* Owners of Covered Buildings may choose not to include in their ENERGY STAR Portfolio

Manager profiles sub-metered or separately-metered energy consumption for the following services, systems, or activities:

- i. Broadcast antennas
- ii. Cellular towers
- iii. Electric vehicle charging
- iv. Emergency generators, if not used to power regular building operations
- v. Separately-metered fire pumps

c.) *Direct Data Upload by Utilities:* Owners may authorize utilities to upload whole building energy use data directly into ENERGY STAR Portfolio Manager. Direct data upload does not relieve an Owner of the duty to enter other requested information into ENERGY STAR Portfolio Manager.

d.) *When Whole-Building Energy Use Data Are Unavailable:* When, despite good-faith efforts to obtain whole-building energy use data, such data are still unavailable, buildings may use default energy consumption values for designated occupancy uses. These default values may be determined by the Department and included in Chicago Energy Benchmarking Guidance materials. Upon determining that they are no longer necessary, the Department may disallow the use of default energy use values.

Any use of default energy values shall be noted in ENERGY STAR Portfolio Manager, according to ENERGY STAR Portfolio Manager Guidance.

Rule 4.03

a.) *Property Use Details for Specific Space Uses:* ENERGY STAR Portfolio Manager requires buildings to input property use details for specific space types, based on specific occupancy uses. Buildings must make a good faith effort to obtain property use details requested by ENERGY STAR Portfolio Manager, using all information available to the Owner, including requesting information from tenants.

b.) *When Property Use Details Are Unavailable:* When, despite good-faith efforts to obtain property use details (such as gross floor area, weekly operating hours, percent that can be heated or cooled, etc.), such data are still unavailable, buildings may use the default property use detail values offered by ENERGY STAR Portfolio Manager. Upon determining that they are no longer necessary, the Department may disallow the use of default property use details.

Any use of default property use details shall be noted in ENERGY STAR Portfolio Manager, according to ENERGY STAR Portfolio Manager Guidance.

Rule 4.04

a.) *Water usage data:* If a covered building's water usage data is made public by the Commissioner as provided in Section 18-14-101.4 (b) of the Ordinance, the owner of a covered building may voluntarily include water usage data of the building in the building's benchmarking or reported

benchmarking information. The owner of a covered building is not required to track the building's water usage data.

b.) *Requesting non-disclosure of water data:* The owner of a covered building may request the Commissioner not to publicly disclose the building's water usage data. The request shall be made to the Commissioner in writing, in electronic or paper form, specifying the building's Chicago Energy Benchmarking Identification Number, and such other relevant information as reasonably requested by the Commissioner.

## **SECTION V. Energy Performance Rating**

Rule 5.01 *Energy performance ratings:* The Commissioner shall assign energy performance ratings to covered buildings as provided in Section 18-14-102.3(c) of the Ordinance. In addition, pursuant to Section 18-14-102.3(c)(5) of the Ordinance, the Commissioner may issue a rating of four stars to any covered building which has obtained an ENERGY STAR certification from the US Environmental Protection Agency.

Rule 5.02 *Half a star designation:* The Commissioner may assign an additional half a star designation to covered buildings, as follows:

(1) An additional half a star rating is assigned to a covered building that is eligible for a three star designation and which has an energy performance score of 71 or more.

(2) An additional half a star rating is assigned to a covered building that is eligible for a two star designation and which has an energy performance score of 51 or more.

(3) An additional half a star rating is assigned to a covered building that is eligible for a one star designation and which has an energy performance score of 31 or more.

Rule 5.03 *Energy performance rating for covered building with no energy performance score:* The Commissioner shall assign energy performance rating for covered buildings with no energy performance score based on the building's Energy Use Intensity ("EUI") as compared to the National Peer Dataset, as follows:

(1) A rating of four stars shall be assigned to: (i) a covered building whose EUI is at or lower than the 25 percentile of the National Peer Dataset, or (ii) a covered building whose EUI is between higher than the 25<sup>th</sup> and lower than the 50<sup>th</sup> percentile of the National Peer Dataset and which has shown a total of 10 percent improvement in its EUI in the previous two consecutive years.

(2) A rating of three stars shall be assigned to: (i) a covered building whose

EUI is between higher than the 25<sup>th</sup> and lower than the 50<sup>th</sup> percentile of the National Peer Dataset, or (ii) a covered building whose EUI is between higher than the 50<sup>th</sup> and lower than the 75<sup>th</sup> percentile of the National Peer Dataset and which has shown a total of 10 percent improvement in its EUI in the previous two consecutive years.

(3) A rating of two stars shall be assigned to: (i) a covered building whose EUI is between higher than the 50<sup>th</sup> and lower than the 75<sup>th</sup> percentile of the National Peer Dataset, or (ii) a covered building whose EUI is higher than the 75<sup>th</sup> percentile of the National Peer Dataset and which has shown a total of 10 percent improvement in its EUI in the previous two consecutive years.

(4) A rating of one star shall be assigned to a covered building whose EUI is higher than the 75<sup>th</sup> percentile of the National Peer Dataset.

(5) A rating of zero star shall be assigned to a covered building whose reported benchmarking information is not timely submitted in violation of the Ordinance.

#### Rule 5.04

*Energy rating card:* The Commissioner shall provide energy rating card to covered buildings as provided in Section 18-14-102.3(d) of the Ordinance. The dimensions of the energy rating card shall be 17 inches in width and 11 inches in height, and shall otherwise be in compliance with the sample layout provided in the City of Chicago Energy Rating Website. Energy rating cards shall be displayed as provided in Section 18-14-102.3(e) of the Ordinance, including, but not limited to, in one of the following locations:

(1) On or near the main entrance of the covered building;

(2) Within an elevator bank, if used by a majority of occupants and visitors of the covered building;

(3) In the lobby of the covered building, if visible to the general public and to visitors prior to or upon entering the building; or

(4) Any other location in which the majority of the occupants and visitors of the building would see the card upon entering the building.

The Commissioner shall send the energy rating card of a covered building to the Owner of such building by the United States Postal Service address available with the Department for such Owner. The Commissioner shall also make the rating of the covered building available online at City of Chicago Energy Rating Website.

#### Rule 5.05

*Adjusting Energy Performance Score thresholds:* The Commissioner may adjust the energy performance score thresholds for the energy performance rating system to ensure the energy performance ratings continue to reflect changing energy efficiency standards by the US Environmental Protection

Agency and other best practices.

## **SECTION VI. Data Verification Requirements**

### **Rule 6.01**

a.) *General*: Pursuant to Section 18-14-102.2, every three years (beginning with the first year in which a building is required to benchmark and report), Covered Buildings must ensure that reported benchmarking information is verified by a Licensed Professional. As defined by Section 18-13-101.3, Licensed Professional means a professional engineer or a registered architect licensed in the State of Illinois, or another trained individual as prescribed by rule.

b.) *Recognition of Licensed Professionals*: In addition to professional engineers or registered architects licensed in the State of Illinois, the Department may also recognize as Licensed Professionals individual credential holders and successful graduates of training programs that have been evaluated and recognized by the Department. Licensed Professionals, as identified by the City of Chicago, may or may not be recognized by other organizations for other Data Verification or building certification purposes.

### **Rule 6.02**

a.) *Criteria for Licensed Professional Training Programs and Credentials*: Licensed Professional training programs and other credentials may be evaluated by the Department according to the following criteria:

- i. Demonstrates trained individuals' proficiency in building energy benchmarking and familiarity with ENERGY STAR Portfolio Manager;
- ii. Demonstrates trained individuals' working knowledge of energy-efficient operations, measures and technology;
- iii. Provides opportunities for ongoing skill maintenance or re-training as technologies, tools, and practices evolve;
- iv. Provides a means of tracking graduates or credentialed individuals by name and with a unique identifier (such as a license, identification, or credential number); and
- v. Makes training materials and records available for review by the Department or its designee and is found to be in compliance with the preceding criteria.

b.) *Review and Recognition of Licensed Professional Training Programs and Credentials*: The Department may review requests for consideration of Licensed Professional training programs and credentials. Training programs and credentials that the Department finds to meet criteria specified in Rule 6.02a shall be recognized by the City of Chicago. Successful graduates of recognized training programs and holders of recognized credentials shall be eligible to conduct Data Verification.

c.) *Recognized Training Programs and Credentials*: The Department shall publish a list of recognized training programs and credentials. Recognition of a training program or credential may be revoked if the Department finds

that the training program or credential no longer meets the criteria in Rule 6.02.a.

As of the time of promulgation of these rules, the Department recognizes the following Licensed Professional training programs and credentials:

- i. State of Illinois: Professional Engineer
- ii. State of Illinois: Architect
- iii. Midwest Energy Efficiency Alliance: Building Operator Certification (BOC)
- iv. City Colleges of Chicago: Building Energy Technology (BET) Certification
- v. ASHRAE: Building Energy Assessment Professional (BEAP)
- vi. Association of Energy Engineers: Certified Energy manager (CEM) Certification
- vii. Facilities Engineering Technology Energy Conservation Course (FET 220) - Offered jointly by IUOE Local 399 and Triton College

Additional programs recognized by the Department and posted to the City of Chicago Energy Benchmarking Website

#### Rule 6.03

*Recognition of Data Verification that Resulted in ENERGY STAR Building Certification:* The Department will also recognize as fulfilling the Data Verification requirement the Owners of Covered Buildings that achieved ENERGY STAR building certification through the US Environmental Protection Agency, provided that the certified property and energy use data include at least six consecutive months of the calendar year for which Data Verification was required by the Ordinance.

For example, a Covered Building that is required by the Ordinance to verify calendar year 2013 data by June 1, 2014 will have satisfied the Data Verification requirement if the Owner can prove that the Covered Building attained ENERGY STAR certification based on data that covered at least six months of the calendar year January-December 2013.

#### Rule 6.04

*Proof of Data Verification:* Proof of Data Verification shall take the form of the ENERGY STAR Portfolio Manager Data Verification Checklist, an official record of ENERGY STAR Certification from the US Environmental Protection Agency, or any successor report specified by the Department, according to Chicago Energy Benchmarking Guidance. The ENERGY STAR Portfolio Manager Data Verification Checklist must be completed and signed by the Licensed Professional who conducts Data Verification for each Covered Building.

A Licensed Professional shall include on the Data Verification Checklist his or her name, email address, mailing address, recognized training program or credential, and any relevant unique identifiers (such as license or certificate numbers), as well as the date on which Data Verification took place.

Licensed Professionals are not required to conduct a site visit or evaluate

the Indoor Environmental Standards included in the Data Verification Checklist, including ASHRAE Standard 62, ASHRAE Standard 55, and IESNA Lighting Handbook, though Covered Buildings are encouraged to pursue these standards.

Pursuant to Section 18-14-102.2, the Owner of a Covered Building shall produce the signed Data Verification Checklist for the most recent year in which verification of reported benchmarking information was required, upon a written request by the commissioner.

Rule 6.05 *Indicating That Data Verification Has Been Conducted:* In the years in which data verification is required by the Ordinance, Owners of Covered Buildings shall include in their ENERGY STAR Portfolio Manager profiles the date on which data verification was completed, along with name, email address, mailing address, recognized training program or credential, and any relevant unique identifiers (such as license or certificate numbers), for the Licensed Professional who conducted data verification, according to Chicago Energy Benchmarking Guidance.

## **SECTION VII Reporting Requirements**

Rule 7.01 *Reporting Process:* Each year, the Owner of each Covered Building shall share a subset of the information contained in that building's ENERGY STAR Portfolio Manager profile, pursuant to Section 18-14-102.3 of the Ordinance.

Unless otherwise directed by the Department, Reported Benchmarking Information shall be reported through the Chicago Energy Benchmarking Custom Reporting Template interface in ENERGY STAR Portfolio Manager, according to ENERGY STAR Portfolio Manager Guidance and Chicago Energy Benchmarking Guidance.

Owners of Covered Buildings will access the Custom Reporting Template interface via a publicly-available website link or URL. Upon following the link and logging into ENERGY STAR Portfolio Manager, Owners will find specific reporting instructions. Step-by-step reporting instructions will also be available in ENERGY STAR Portfolio Manager Guidance and Chicago Benchmarking Guidance materials.

Rule 7.02 *Demonstrating Compliance with Data Verification Requirement:* In the years in which Data Verification is required of Covered Buildings, those buildings shall affirm that the Data Verification requirement has been fulfilled, using ENERGY STAR Portfolio Manager, according to Chicago Energy Benchmarking Guidance.

Rule 7.03 *Proof of Reporting:* Upon submitting reported benchmarking information through the Chicago Energy Benchmarking Custom Reporting Template, Owners will receive a confirmation email from the US Environmental Protection Agency, which shall serve as proof-of-submission.



Rule 7.04 *Public Disclosure of Individual Building Information:* Section 18-14-102.3 of the Ordinance allows for public disclosure of Reported Benchmarking Information.

The Department may choose to make specific reported benchmarking information available to the public through the City of Chicago Energy Benchmarking Website, the City of Chicago Data Portal, or other communication vehicles.

Pursuant to Section 18-14-102.3 of the Ordinance, to the extent allowable under local law, no individually-attributable reported benchmarking information from the first year in which a building is required to benchmark shall be made public.

Rule 7.05 *Obligation to Correct Inaccurate Data:* If a Covered Building Owner learns that any reported benchmarking information is inaccurate, the building's ENERGY STAR Portfolio Manager profile must be amended and re-reported according to the process described in Rule 7.01 within 30 days of learning of the inaccuracy.

## **SECTION VIII. Retention of Records**

Rule 8.01 *Retention of Energy Records:* The Owner of each Covered Building shall retain documentation of all building data entered into or produced by ENERGY STAR Portfolio Manager for a period of no less than three years from the date by which benchmarking of that data was required.

Benchmarking documentation shall include:

- i. Completed Data Verification Checklist, signed by a Licensed Professional for the year data verification is required, and/or an official record of ENERGY STAR Certification from the US Environmental Protection Agency;
- ii. Confirmation email from the US Environmental Protection Agency containing proof-of-submission;
- iii. Back-up information on energy use inputs, including, but not limited to, energy bills, calculations, and correspondence demonstrating good faith efforts to obtain actual energy data, property use details, and other data requested by ENERGY STAR Portfolio Manager; and
- iv. A copy of energy data entered into ENERGY STAR Portfolio Manager.

## **SECTION IX Energy Performance Rating and Score Disclosure**

Rule 9.01 A covered building owner shall comply with the disclosure requirement

provided in Section 18-14-102.3(f)(1) of the Ordinance (“Transactional Disclosure”) and the disclosure requirement provided in Section 18-14-102.3(f)(2) of the Ordinance (“Advertisement Disclosure”).

- Rule 9.02                      Transactional Disclosure:
- (a) Transactional Disclosure requirement may be complied with by disclosing a covered building’s ENERGY STAR score from the US Environmental Protection Agency in a database maintained by a national commercial real estate service provider, including, but not limited to, the database maintained by CoStar Group, Inc., as determined by the Commissioner.
- (b) Except as otherwise provided in Rule 9.02(a), transactional disclosure shall be in writing, in electronic or paper form, and shall be signed, electronically or on paper, and attested to by the Owner of the covered building.

**SECTION X.            Exemptions and Exceptions**

- Rule 10.01                      *General:* There are several exemptions and exceptions to the Ordinance, as detailed below. To apply for an exemption or exception, the Owner of a Covered Building must submit a written request and supporting information through the change of building designation process described in Rule 1.06.
- Rule 10.02                      *Exemptions from Benchmarking Requirements:* Section 18-14-102.1 of the Ordinance describes specific exemptions to the benchmarking requirement, based on financial distress, low occupancy, new construction, and change of ownership.
- Rule 10.03                      *Exceptions to Data Verification Requirement:* Section 18-14-102.2 of the Ordinance, describes specific exceptions to the Data Verification requirement, based on undue financial hardship.
- Rule 10.04                      *Exceptions to Benchmarking Public Disclosure:* Section 18-14-102.3 of the Ordinance describes specific exceptions to public disclosure, based on occupancy use.
- Rule 10.05                      *Exception to Energy Performance Rating Designation:* Section 18-14-102.3(c)(3) of the Ordinance exempts from energy performance rating covered buildings that: (i) are exempt from benchmarking requirement; (ii) do not receive an energy performance score or EUI from the benchmarking tool for technical reasons acceptable to the Commissioner; or (iii) are unable to make energy efficiency improvements due to the building’s infrastructure limitations, including, but not limited to, the covered building’s inability to update equipment due to limited space, or other technical reasons acceptable by the Commissioner.

Possible documentation required to receive this exemption, includes, but is not limited to:

(1) Energy audit report stamped by a third party licensed professional showing that no additional energy improvements are possible; or

(2) Energy report stamped by a third party licensed professional showing that infrastructure limitations prevent additional energy upgrades to be made to the covered building.

(3) Energy efficiency report from an energy utility company or its representative specifying that the covered building is not eligible for utility-provided rebates or incentives for additional energy improvements.

Documentation shall be submitted to the Department on the standard form provided on the City of Chicago Energy Rating Website.

Rule 10.06

*Exception to Energy Performance Rating Disclosure:* Section 18-14-102.3 of Ordinance exempts from energy performance rating disclosure: (i) covered buildings that are subject to utility costs disclosure requirements and exceptions provided in Chapter 5-16 of the Municipal Code of Chicago; and (ii) covered buildings that are exempt from benchmarking requirements as provided in Section 18-14-102.1(c) of the Ordinance. If a covered building is exempted from the energy performance rating disclosure because the building is subject to utility costs disclosure requirements in Chapter 5-16 of the Municipal Code of Chicago, the Commissioner may request the owner of such building to provide copy of its most recent utility costs disclosure.

## ARTICLE II

### SECTION XI. Appeal Process

Rule 11.01

*Building Owner Request for Hearing:* If a request for change in a building's covered status or other designation is denied after a change of building designation request has been made pursuant to Rule 1.06, the Owner of the building, within ten days of the issuance of a notice of the denial, may make a written demand upon the Commissioner for a hearing. Upon receipt of a timely written demand for a hearing, the Commissioner shall within 30 days conduct a hearing.

If at such a hearing the owner establishes through competent evidence that the denial was based upon incorrect findings, the Commissioner shall correct the designation of the building. If upon such a hearing the designation is found to have been based upon correct findings, the designation shall become final. The Commissioner's determination shall be

final and may be appealed in the manner provided by law.

## **SECTION XII. Enforcement**

- Rule 12.01 a.) *Determination of Compliance:* The Commissioner is authorized to determine whether any or all persons subject to the Ordinance have complied with the requirements of the Ordinance as set forth in Chapter 18-14.
- Rule 12.02 a.) *Requests for Compliance:* If the requirements of the Ordinance have not been met, the Commissioner may issue a request for compliance in the form of a Notice to Correct, giving any and all persons subject to the Ordinance 30 days to come into compliance.
- Rule 12.03 a.) *Violations:* If any person subject to the Ordinance fails to comply with the requirements of the Ordinance, the Commissioner may issue a notice of violation, according to Section 18-14-101.5(b).

## APPENDIX A

### CHAPTER 18-14 BUILDING ENERGY USE BENCHMARKING

- 18-14-101 General.
- 18-14-101.1 Title.
- 18-14-101.2 Scope.
- 18-14-101.3 Definitions.
- 18-14-101.4 Solicitation of compliance information and water usage data.
- 18-14-101.5 Enforcement.
- 18-14-102 Energy use benchmarking, verification, and disclosure requirements.
- 18-14-102.1 Benchmarking.
- 18-14-102.2 Data verification.
- 18-14-102.3 Disclosure and rating.

#### **18-14-101 General.**

##### **18-14-101.1 Title.**

This Chapter 18-4 of Title 18 shall be known as the Building Energy Use Benchmarking Ordinance of the City of Chicago, and shall be cited as such. It is referred to herein as “this chapter”.

(Added Coun. J. 9-11-13, p. 60628, § 1)

##### **18-14-101.2 Scope.**

This chapter applies to all covered buildings.

(Added Coun. J. 9-11-13, p. 60628, § 1)

##### **18-14-101.3 Definitions.**

For purposes of this chapter the following definitions shall apply:

“Benchmark” means to track and input a building's energy consumption data, water usage data and other relevant building information for 12 consecutive months, as required by the benchmarking tool, to quantify the building's energy use.

“Benchmarking tool” means the website-based software, commonly known as “Energy Star Portfolio Manager”, developed and maintained by the United States Environmental Protection Agency to track and assess the relative energy use of buildings nationwide. This term also applies to any successor system thereto, including any change or addition made to such tool by the United States Environmental Protection Agency.

“Building” means a structure, or part thereof, enclosing any use or occupancy.

“Certificate of occupancy” means the certificate issued by the zoning administrator or the building commissioner allowing building occupancy or use.

“Commissioner” means the city's commissioner of business affairs and consumer protection.

“Covered building” means any Group 1 covered building or Group 2 covered building, as defined by this chapter. The term “covered building” does not include any building with more than 10 percent occupancy use classified as Class D open air assembly units, Class G industrial units, Class H storage units, Class I hazardous use units, or Class J miscellaneous buildings and structures, as defined by Chapter 13-56.

“Data center” means a space specifically designed and equipped to meet the needs of high density computing equipment such as server racks, used for data storage and processing, as defined by the benchmarking tool.

“Energy performance rating” means an energy performance star designation that the commissioner assigns to a covered building pursuant to the energy performance rating system.

“Energy performance rating system” means a system for rating and classifying covered buildings' energy performance scores or, if a covered building does not receive an energy performance score from the benchmarking tool, its EUI. The system may also include the rating of covered buildings' energy performance improvement over time.

“Energy performance score” means the 1 to 100 numerical score produced by the benchmarking tool, also known as Energy Star score, or any successor score thereto. The energy performance score assesses a building's energy performance relative to similar buildings, based on source energy use, operating characteristics, and geographical location.

“Energy use intensity” or “EUI” means a numeric value calculated by the benchmarking tool that represents the energy consumed by a building relative to its size.

“Group 1 covered building” means any building or group of buildings that have the same property identification or index number (PIN) or, with regard to condominium buildings, any building in which the first seven digits of the property identification or index number (PIN) of the units are the same, containing 250,000 or more gross square feet, as identified by the commissioner.

“Group 2 covered building” means any building or group of buildings that have the same property identification or index number (PIN) or, with regard to condominium buildings, any building in which the first seven digits of the property identification or index number (PIN) of the units are the same, containing 50,000 or more gross square feet but less than 250,000 gross square feet, as identified by the commissioner.

“Gross square feet” means the total number of square feet measured between the exterior surfaces of the enclosing fixed walls of a building. The term “gross square feet” includes vent shafts, elevator shafts, flues, pipe shafts, vertical ducts, stairwells, light wells, basement space, mechanical or electrical rooms, and interior parking.

“Licensed professional” means a professional engineer or a registered architect licensed in the State of Illinois, or another trained individual as prescribed by rule.

“Owner” has the meaning ascribed to the term in Section 13-4-010.

“Reported benchmarking information” means descriptive information about a building, its operating characteristics, and information generated by the benchmarking tool related to the building's energy consumption, water usage and efficiency, as prescribed by rule. Reported benchmarking information includes, but is not limited to, the building identification number, address, square footage, energy performance score, energy use intensity, and annual greenhouse gas emissions, and water usage.

“Residential occupancy” means any building occupancy use classified as any combination of Class A residential units, as defined by Chapter 13-56.

(Added Coun. J. 9-11-13, p. 60628, § 1; Amend Coun. J. 11-21-17, p. 62508, § 1)

#### **18-14-101.4 Solicitation of compliance information and water usage data.**

(a) (1) Within 30 days of a request by the building owner, each tenant of a unit in a covered building shall provide all information that cannot otherwise be acquired by the building owner and that is necessary for the building owner to comply with the requirements of this chapter.

(2) Any owner of a covered building shall request such information no later than March 1 of the years in which benchmarking is required by Section 18-14-102.1. If the

owner of a covered building receives notice that a tenant intends to vacate a unit which is subject to the requirements of this subsection, the owner shall request the information specified in this subsection within 10 days of such notice, and the tenant shall provide such information within 30 days of the request.

(3) The failure of any tenant to provide the information required under this subsection to the owner of a covered building shall not relieve such owner of the obligation to benchmark the building as provided in Section 18-14-102.1, using all information otherwise available to the owner.

(4) Failure of any tenant to provide the information required under this subsection to the owner of a covered building shall create a rebuttable presumption that the owner, tenant, or both have not complied with the time limits specified in this section.

(5) If a tenant of a unit in a covered building fails to provide information to the owner of the building as provided in this subsection, the owner shall be considered to be in compliance with Section 18-14-102.1 with respect to the building if: (1) the owner proves that the owner has requested the tenant to provide such information as specified in this subsection; and (2) the owner has benchmarked the building as provided in Section 18-14-102.1, using all information otherwise available to the owner.

(b) The commissioner of water management may transmit water usage information for covered buildings to the commissioner. Except for covered buildings whose owners submit a request to the commissioner, in a form and manner provided by rule, that the buildings' water usage data not to be made public, the commissioner is authorized to make such water usage information readily available to the public. Notwithstanding any other provision of this chapter to the contrary, if the commissioner makes a covered building's water usage information readily available to the public as provided in this subsection, the covered building owner may, at the owner's option, decide to include such water usage data in the covered building's benchmark or reported benchmarking information but the covered building owner is not required to do so. (Added Coun. J. 9-11-13, p. 60628, § 1; Amend Coun. J. 11-21-17, p. 62508, § 1)

#### **18-14-101.5 Enforcement.**

(a) The commissioner is authorized to enforce this chapter. The commissioner is also authorized to adopt rules and regulations for the proper administration and enforcement of this chapter.

(b) Any person who violates this chapter may be subject to a fine of up to \$100.00 for the first violation, and an additional fine of up to \$25.00 for each day that the violation continues.

(Added Coun. J. 9-11-13, p. 60628, § 1)

#### **18-14-102 Energy use benchmarking, verification, and disclosure requirements.**

##### **18-14-102.1 Benchmarking.**

(a) No later than June 1, 2014, and no later than June 1st each year thereafter, the owner of any Group 1 covered building shall benchmark such building for the previous calendar year; provided, however, the owner of any Group 1 covered building with 10 percent or more residential occupancy shall benchmark such building for the previous calendar year no later than June 1, 2015, and no later than June 1st each year thereafter.

(b) No later than June 1, 2015, and no later than June 1st each year thereafter, the owner of any Group 2 covered building shall benchmark such building for the previous calendar year; provided, however, the owner of any Group 2 covered building with 10 percent or more residential occupancy shall benchmark such building for the previous calendar year no later than June 1, 2016, and no later than June 1st each year thereafter.

(c) The owner of any covered building shall retain all information tracked and input into the benchmarking tool for a minimum of three years beyond the date on which benchmarking was required.

**Exception:** The commissioner may exempt from the benchmarking requirement the owner of a covered building that submits documentation, in a form prescribed by rule, establishing any of the following:

(i) The building is presently experiencing qualifying financial distress, as defined by any of the following: (1) the building is the subject of a qualified tax lien sale or public auction due to property tax arrearages, (2) the building is controlled by a court appointed receiver, or (3) the building has been acquired by a deed in lieu of foreclosure; or

(ii) The building had average physical occupancy of less than 50 percent throughout the calendar year for which benchmarking is required; or

(iii) The building is a new construction and the building's certificate of occupancy was issued during the calendar year for which benchmarking is required; or

(iv) The building had a change of ownership in the calendar year for which benchmarking is required.

(Added Coun. J. 9-11-13, p. 60628, § 1; Amend Coun. J. 11-21-17, p. 62508, § 1)

### **18-14-102.2 Data verification.**

Prior to the first benchmarking deadline prescribed by Section 18-14-102.1, and prior to each third benchmarking deadline thereafter, the owner of a covered building shall ensure that reported benchmarking information for that year is verified by a licensed professional. Such verification shall be in a form of a stamped and signed statement by a licensed professional attesting to the accuracy of the information. The owner of a covered building shall produce such statement for the most recent year in which verification of reported benchmarking information was required, in a form prescribed by rule, upon a written request by the commissioner.

Exception: The commissioner may exempt from the verification requirement the owner of a covered building that submits documentation, in a form prescribed by rule, establishing that compliance with this section will cause undue financial hardship. If no-cost or low-cost verification options are available, the commissioner may suggest that the covered building use such alternative options.

(Added Coun. J. 9-11-13, p. 60628, § 1)

### **18-14-102.3 Disclosure and rating.**

(a) In accordance with the schedule prescribed by Section 18-14-102.1, the owner of any covered building shall submit reported benchmarking information for the previous calendar year, using the benchmarking tool, in a manner prescribed by the commissioner.

(b) The commissioner and the chief sustainability officer shall prepare and submit an annual report to the mayor and the city council reviewing and evaluating energy efficiency in covered buildings, including summary statistics on the most recent reported energy benchmarking information and a discussion of energy efficiency trends, cost savings, and job creation effects resulting from energy efficiency improvements.

(c) (1) The commissioner shall establish and implement an energy performance rating system that assigns stars to covered buildings based on such buildings' energy performance scores. Beginning in calendar year 2019, the commissioner shall annually, after covered buildings have submitted their reported benchmarking information as provided in 18-14-102.3, assign a rating to each covered building, as follows:

(i) A rating of four stars shall be assigned to those covered buildings whose energy performance scores are between 81 and 100, inclusive, or whose energy



performance scores are between 61 and 80, inclusive, and which have shown a total of 10-point improvement in their energy performance scores in the previous two consecutive calendar years;

(ii) A rating of three stars shall be assigned to those covered buildings whose energy performance scores are between 61 and 80, inclusive, or whose energy performance scores are between 41 and 60, inclusive, and which have shown a total of 10-point improvement in their energy performance scores in the previous two consecutive calendar years;

(iii) A rating of two stars shall be assigned to those covered buildings whose energy performance scores are between 41 and 60, inclusive, or whose energy performance scores are between 11 and 40, inclusive, and which have shown a total of 10-point improvement in their energy performance scores in the previous two consecutive calendar years;

(iv) A rating of one star shall be assigned to those covered buildings whose energy performance scores are below 40; and

(v) A rating of zero star shall be assigned to those covered buildings whose reported benchmarking information is not timely submitted in violation of this chapter.

(2) In addition to the rating provided in subsection (c)(1) of this section, the commissioner is authorized to assign an additional rating of half a star to a covered building that has an energy performance score which is close to: (i) the highest possible score; or (ii) the next higher rating, as determined by rule promulgated by the commissioner.

(3) No rating shall be assigned to those covered buildings that: (i) are exempt from the benchmarking requirement as provided in 18-14-102.1(c); (ii) do not receive an energy performance score or EUI from the benchmarking tool for technical reasons acceptable to the commissioner; or (iii) are unable to make energy efficiency improvements due to the building's infrastructure limitations or other acceptable technical reasons, as determined by the commissioner after reviewing the application, supporting documentations and other relevant materials submitted by the owner as provided by rule.

(4) For buildings with no energy performance scores, the energy performance rating shall be based on EUI as compared to national medians.

(5) The commissioner is authorized, by rule, to adjust the energy performance score thresholds for the energy performance rating system in order to ensure the energy performance ratings continue to reflect changing energy efficiency standards and best practices.

(d) The commissioner shall provide each covered building with an energy rating card indicating the covered building's current year energy performance rating. Provided, however, no energy rating card shall be provided to covered buildings: (i) that are exempt from public disclosure of reported benchmarking information as provided in 18-14-102.3, (ii) that are exempt from the benchmarking requirement as provided in 18-14-102.1, or (iii) that do not receive an energy performance score or EUI from the benchmarking tool for technical reasons acceptable to the commissioner.

(e) Upon receipt of an energy rating card, a covered building shall conspicuously post the energy rating card so that it is visible to the general public and to visitors prior to or upon entering the covered building. The energy rating card shall not be defaced, marred, camouflaged or hidden from public view.

(f) (1) A covered building owner, or agent thereof, shall not execute an oral or written lease or purchase agreement, contract to lease or sell, or accept any money or other valuable consideration in an application for an oral or written lease or purchase agreement for the entire building or a portion of the building without disclosing to the tenant, applicant or

prospective buyer, in a form and manner prescribed by the commissioner by rule, the covered building's current calendar year energy performance rating or energy performance score. The tenant, applicant, or prospective buyer shall sign a receipt acknowledging that such tenant, applicant, or prospective buyer has received the disclosure required by this subsection.

(2) A covered building owner, or agent thereof, shall include a covered building's current calendar year energy performance rating or energy performance score in any advertisements for sale or lease of the covered building or a portion of the building.

**Exception:** No disclosure shall be required under this subsection (f) if any portion of the covered building is subject to the utility costs disclosure requirements and exceptions provided in Chapter 5-16 of this Code.

**Exception:** No disclosure shall be required under this subsection (f) if the covered building is exempt from the benchmarking requirement as provided in 18-14-102.1(c).

(g) The commissioner is authorized to make reported benchmarking information and energy performance ratings readily available to the public.

**Exception:** Unless a different result is mandated by applicable law, the commissioner shall not make readily available to the public any individually attributable reported benchmarking information from the first calendar year that a covered building is required to benchmark.

**Exception:** Unless a different result is mandated by applicable law, the commissioner shall not make readily available to the public any individually attributable energy performance rating assigned to a covered building until six months after initial ratings are assigned.

**Exception:** Unless a different result is mandated by applicable law, the commissioner shall not make readily available to the public any individually attributable reported benchmarking information or energy performance rating pertaining to a covered building that contains a data center, television studio, or trading floor that together exceed 10 percent of the gross square footage of any such building until the commissioner determines that the benchmarking tool can make adequate adjustments for such facilities. When the commissioner determines that the benchmarking tool can make such adjustments, it shall report such determination to the mayor and the city council.

(Added Coun. J. 9-11-13, p. 60628, § 1; Amend Coun. J. 11-21-17, p. 62508, § 1)