

**City of Chicago  
Department of Business Affairs and Consumer Protection**

# **BUILDING ENERGY USE BENCHMARKING**

**Effective Date: June 1, 2014**



**City of Chicago  
Mayor Rahm Emanuel**

**Business Affairs and Consumer Protection  
Maria Guerra Lapacek, Commissioner**

## **BUILDING ENERGY USE BENCHMARKING RULES AND REGULATIONS**

**WHEREAS**, pursuant to the authority granted in Chapters 2-25 and the specific authority granted in Section 18-14-101.5 of the Municipal Code of Chicago, the Commissioner of Business Affairs and Consumer Protection promulgates these rules and regulations regarding Building Energy Use Benchmarking;

As Commissioner of Business Affairs and Consumer Protection of the City of Chicago, I issue the following rules and regulations.

By Order of the Commissioner:

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Maria Guerra Lapacek, Commissioner

**BUILDING ENERGY USE BENCHMARKING  
RULES AND REGULATIONS**

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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 and regulations promulgated thereunder.

**“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 and regulations 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.

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

**“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:* 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 7.01.

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 and Regulations.

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 Identifier 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 Rule and Regulations, 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.

- 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 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 requested 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 / 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.

## **SECTION V. Data Verification Requirements**

Rule 5.01

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 5.02

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 and/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 an 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 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 5.01c 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 5.02a.

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) Certificate
- v. ASHRAE: Building Energy Assessment Professional (BEAP) Certification
- vi. Association of Energy Engineers: Certified Energy Manager (CEM) Certification

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

Rule 5.03

*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 5.04

*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 reports specified by the Department, according to Chicago Energy Benchmarking Guidance. ENERGY STAR Portfolio Manager Data Verification Checklists must be completed and signed by the Licensed Professional who conducted 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 5.05

*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 VI**      **Reporting Requirements**

Rule 6.01

*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 6.02 *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 6.03 *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 6.04 *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 6.05 *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 6.01 within 30 days of learning of the inaccuracy.

## **SECTION VII. Retention of Records**

Rule 7.01 *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 in which 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 VIII. Exemptions and Exceptions**

- Rule 8.01 *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 process described in Rule 1.06.
- Rule 8.02 *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, and new construction.
- Rule 8.03 *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 8.04 *Exceptions to Public Disclosure:* Section 18-14-102.3 of the Ordinance describes specific exceptions to public disclosure, based on occupancy use.

## ARTICLE II

### **SECTION IX. Appeal Process**

Rule 9.01                    *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 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 X. Enforcement**

Rule 10.01                    a.) *Determination of Compliance:* The Commissioner is authorized to determine whether any or all persons subject to the Ordinance have complied with the requirements as set forth in Section 18-14-101.

Rule 10.02                    a.) *Requests for Compliance:* If the requirements 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 10.03                    a.) *Violations:* After 30 days, if any and all persons subject to the Ordinance fail to comply with the reporting requirements, 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**

### **Chapter 18-14. Building Energy Use Benchmarking**

#### **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.”

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

This chapter applies to all covered buildings.

##### **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 and other relevant building information for twelve 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 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), 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), 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 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.

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

#### **18-14-101.4 Solicitation of compliance information.**

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.

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 section, the owner shall request the information specified in this section within 10 days of such notice, and the tenant shall provide such information within 30 days of the request.

The failure of any tenant to provide the information required under this section 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.

Failure of any tenant to provide the information required under this section 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.

If a tenant of a unit in a covered building fails to provide information to the owner of the building as provided in this section, 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 section; and (2) the owner has benchmarked the building as provided in Section 18-14-102.1, using all information otherwise available to the owner.

#### **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.

## **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.

### **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.

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

(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) The commissioner is authorized to make reported benchmarking information readily available to the public.

**Exception:** To the extent allowable under 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:** To the extent allowable under applicable law, the commissioner shall not make readily available to the public any individually-attributable reported benchmarking information pertaining to a covered building that contains a data center, television studio, or trading floor that together exceed ten 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.