

ORDINANCE NO. 2021 - 30

AN ORDINANCE ADDING ENERGY BENCHMARKING TO THE CITY CODE PROVISIONS REGARDING ENFORCEMENT AND ADMINISTRATIVE OFFENSES AND ESTABLISHING LARGE BUILDING ENERGY BENCHMARKING AND DISCLOSURE REQUIREMENTS, THEREBY AMENDING CHAPTERS 1 AND 10 OF THE CITY CODE.

The City Council of the City of Bloomington, Minnesota ordains:

* * *

Section 1. That Chapter 1 of the City Code is hereby amended by deleting those words that are contained in brackets [] with ~~strike through~~ text and adding those words that are underlined, to read as follows:

* * *

CHAPTER 1: INTERPRETATION AND ENFORCEMENT OF THE CITY CODE

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ARTICLE I. GENERAL PROVISIONS

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§ 1.06 ENFORCEMENT OF ORDINANCES AND LAWS.

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(b) The following city employees are authorized to issue citations for violations of the city code:

* * *

(8) City Engineer, Water Resources Manager, ~~[and]~~ Water Resources Civil Engineer, and City Benchmarking Official and aides.

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ARTICLE II. CIVIL HEARING PROCESS

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§ 1.11 CITY CODE PROVISIONS THAT ARE ADMINISTRATIVE OFFENSES.

A violation of the following provisions of the city code shall be an administrative offense that may be subject to the administrative mediation and hearing process of this Article II.

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(12) Chapter 10, Article VIII, Phosphorus Fertilizer; Chapter 10, Article X, Energy Benchmarking;

* * *

Section 2. That Chapter 10 of the City Code is hereby amended by deleting those words that are contained in brackets [] with ~~strike through~~ text and adding those words that are underlined, to read as follows:

* * *

CHAPTER 10: ENVIRONMENTAL CONTROL

* * *

ARTICLE X. ENERGY BENCHMARKING

* * *

§ 10.60 PURPOSE.

The Council finds the following:

(a) Climate change disproportionately harms BIPOC (Black, Indigenous, and People of Color) communities.

(b) Bloomington's Energy Action Plan outlines a goal of reducing greenhouse gas emissions by seventy-five percent by 2035.

(c) Commercial and industrial buildings account for seventy percent of the City's energy-related greenhouse gas emissions.

(d) Improving existing buildings through energy efficiency upgrades is one of the most cost-effective ways to achieve the City's greenhouse gas emission goal.

(e) Over \$160 million is spent annually on electricity and natural gas in buildings within the City of Bloomington.

(f) The U.S. Environmental Protection Agency estimates that the average building wastes thirty percent of the energy it consumes due to inefficiencies.

(g) Energy tracking, known as benchmarking, gives building owners and occupants insight into their building's energy performance and helps identify opportunities to reduce cost and waste.

(h) Public sharing of benchmarking data drives the market toward more efficient buildings.

§ 10.61 DEFINITIONS. The following words and terms, when used in this Article X, shall have the following meanings, unless the context clearly indicates otherwise.

BENCHMARK. To input the total energy consumed for a building and other descriptive information for such building as required by the benchmarking tool in order to establish a baseline for energy performance and identify opportunities to reduce cost and waste.

BENCHMARKING INFORMATION. Information related to a building's energy consumption as generated by the benchmarking tool, and descriptive information about the physical building and its operational characteristics.

BENCHMARKING TOOL. The United States Environmental Protection Agency's Energy Star Portfolio Manager Tool or an equivalent tool approved by the City Benchmarking Official.

CITY BENCHMARKING OFFICIAL. Any duly authorized representative of the city as designated by the City Manager.

COVERED CITY BUILDING. Any building owned by the City of Bloomington containing a floor area of 75,000 gross square feet or greater.

COVERED BUILDING. Any building, other than a Covered City Building, with occupancy uses other than industrial containing a floor area of 75,000 gross square feet or greater.

ENERGY. Electricity, natural gas, steam, heating oil, or other product sold by a utility for use in a building, or renewable on-site electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities captured by ENERGY STAR Portfolio Manager.

ENERGY PERFORMANCE SCORE. The numeric rating generated by the Energy Star Portfolio Manager tool or equivalent tool approved by the City Benchmarking Official that compares the energy usage of the building to that of similar buildings.

ENERGY STAR PORTFOLIO MANAGER. The tool developed and maintained by the United States Environmental Protection Agency to track and assess the relative energy performance of buildings nationwide.

FLOOR AREA. The sum of the horizontal areas of the floors inside a building envelope, measured between the outside surfaces of the exterior walls of a building.

INDUSTRIAL. Manufacturing, compounding, processing, packaging, treatment and assembly of products and materials.

PROPERTY OWNER. An individual or entity possessing title to a building, or an agent authorized to act on behalf of the property owner.

TENANT. A person or entity occupying or holding possession of a building or premises pursuant to a rental agreement.

UTILITY. An entity that distributes and sells natural gas, electric, or thermal energy services for buildings.

§ 10.62 BENCHMARKING REQUIREMENTS.

(a) Applicability.

(1) Covered City Buildings. All city-owned buildings containing a floor area of 75,000 gross square feet or greater must be benchmarked for the previous calendar year.

(2) Covered Buildings. All buildings with occupancy uses other than industrial containing a floor area of 75,000 gross square feet or greater must be benchmarked for the previous calendar year.

(b) Benchmarking information must include:

- (1) Building address;**
- (2) Energy use intensity (EUI);**
- (3) Annual greenhouse gas emissions; and**
- (4) The energy performance score that compares the energy use of the building to that of similar properties, where available.**

(c) Schedule. Property owners must annually benchmark and obtain an energy performance score in accordance with the schedule in the following table. Subsequent benchmarking submissions for each covered city building and each covered building are due by June 1 of each year thereafter.

<u>Property</u>	<u>Initial Reporting Date</u>
<u>Covered City Buildings containing a floor area of 75,000 gross square feet or greater</u>	<u>December 30, 2021</u>
<u>Covered Buildings containing a floor area of 100,000 gross square feet or greater</u>	<u>June 1, 2022</u>
<u>Covered Buildings containing a floor area of 75,000 gross square feet or greater</u>	<u>June 1, 2023</u>

§ 10.63 DISCLOSURE.

(a) The City Benchmarking Official must make readily available to the public, and update annually, benchmarking information for the previous calendar year according to the schedule in the following table. Subsequent benchmarking information must be made available to the public by August 30 of each year thereafter.

<u>Property</u>	<u>Initial Disclosure Date</u>
<u>Covered City Buildings containing a floor area of 75,000 gross square feet or greater</u>	<u>August 30, 2022</u>
<u>Covered Buildings containing a floor area of 100,000 gross square feet or greater</u>	<u>August 30, 2023</u>
<u>Covered Buildings containing a floor area of 75,000 gross square feet or greater</u>	<u>August 30, 2024</u>

§ 10.64 MULTIPLE TENANT BUILDINGS.

Where aggregate data is not available, each tenant located in a covered building subject to this article must, within thirty (30) days of a request by the property owner and in a form provided by the City Benchmarking Official, provide all information that cannot otherwise be acquired by the property owner and that is needed by the property owner to comply with the requirements of this Article X.

§ 10.65 EXEMPTIONS.

(a) A building is exempt from the benchmarking and energy assessment requirements of §10.62 if its primary use is industrial. A property owner may make a request to the City to qualify for this exemption. The City Benchmarking Official will determine whether the building qualifies for an exemption based on available zoning, assessing, and related data.

(b) The City Benchmarking Official may exempt a property owner from the benchmarking and energy assessment requirements of §10.62 for a single year if the property owner submits documentation establishing any of the following:

(1) The property the building is situated in is presently experiencing qualifying financial distress in that the property is:

(A) the subject of a qualified tax lien sale or public auction due to property tax arrearages;

(B) the property is controlled by a court-appointed receiver based on financial distress;

(C) the property is owned by a financial institution through default by the borrower;

(D) the property has been acquired by a deed in lieu of foreclosure; or

(E) the property has a senior mortgage which is subject to a notice of default;

(2) The building or areas of the building subject to the requirements of this article have been less than fifty (50) percent occupied during the calendar year for which benchmarking is required; or

(3) The building does not have a certificate of occupancy or temporary certificate of occupancy for all twelve (12) months of the calendar year for benchmarking is required.

§ 10.66 VIOLATIONS.

Violation of any provision of this Article X may be subject to civil penalty pursuant to § 12.15 of the City Charter and § 1.12 through § 1.20 of this city code. However, nothing in this Article X may be construed to limit the city's other available legal remedies for any violation of the law, including without limitation, criminal, civil and injunctive actions.

§ 10.67 SEVERABILITY.

In the event that any section, subsection, sentence, clause or phrase of this article is for any reason held to be invalid by a court of competent jurisdiction, the invalidity shall extend only to the section, subsection, sentence, clause or phrase affected, and shall not affect the validity of the remaining portions of this article. The City Council hereby declares that it would have adopted the article and each section,

subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

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Section 3. This Ordinance becomes effective October 1, 2021. Enforcement of the reporting requirements of this Ordinance will begin one year after the initial reporting date provided in the table in Section 10.62.

* * *

/s/ Tim Busse
Mayor

ATTEST:

APPROVED:

/s/ Matt Brillhart
Secretary to the Council

/s/ Melissa J. Manderschied
City Attorney