

COMPARED VERSION
NEW ORDINANCE TO CODE BOOKS

ORDINANCE NO. 211094

Amending various sections of Chapter 17, “Energy Empowerment” for the purposes of requiring written designation of certain lessees as responsible parties and allowing benchmarking submission exemptions for a term longer than one year.

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That Chapter 17, City Code of Ordinances, is hereby amended by repealing Sections 17-2 and 17-3 and enacting in lieu thereof new sections of like number and subject matter to read as follows:

Sec. 17-2. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows:

(a) “Benchmark” means to input and submit the total energy and water consumed for a property for the previous calendar year and other descriptive information for such property as required by the benchmarking tool. Total energy and water consumption shall not include separately metered uses that are not integral to covered property operations as determined by the director.

(b) “Benchmarking submission” means a submission to the director, on an annual basis as set forth herein, evidencing the covered property’s compliance with the benchmark mandate and includes the required reported benchmarking information for the applicable year.

(c) “Benchmarking tool” means the U.S. Environmental Protection Agency’s ENERGY STAR Portfolio Manager to track and assess the energy and water use of certain covered properties relative to similar covered properties.

(d) “Condominium” means a site that combines separate ownership of individual units with common ownership of other elements such as common areas.

(e) “Covered property” means any Group 1 covered property, Group 2 covered property or Group 3 covered property as defined herein. The term “covered property” shall not include any building owned by the state of Missouri, the federal government or any residential buildings in zoning districts R-80 (Residential 80), R-10 (Residential 10), R-7.5 (Residential 7.5), R-6 (Residential 6), R-5 (Residential 5) or R-2.5 (Residential 2.5).

(f) “Director” means the City Manager, or ~~his~~their designee.

(g) “Energy” means electricity, natural gas, steam, or fuel oil sold by a utility to a customer of a covered property, or on-site generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses captured by the ENERGY STAR Portfolio Manager.

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

(i) “ENERGY STAR score” means the numeric rating generated by the ENERGY STAR Portfolio Manager tool to track and assess the energy and water use of certain covered properties relative to similar covered properties.

(j) “Group 1 covered property” means a covered property:

- (1) That has a building that exceeds 10,000 gross square feet in total combined floor area;
- (2) That is owned by the City; and
- (3) For which the City regularly pays all or part of the annual energy bills.

(k) “Group 2 covered property” means a covered property, other than Group 1 covered property,

- (1) That has a building that exceeds 100,000 gross square feet in total combined floor area; or
- (2) That has a building that is held in the condominium form of ownership that is governed by the same board, and that exceeds 100,000 gross square feet in total combined floor area.

(l) “Group 3 covered property” means a covered property, other than Group 1 covered property,

- (1) That has a building that exceeds 50,000 gross square feet in total combined floor area, but that does not exceed 100,000 gross square feet in total combined floor area; or
- (2) That has a building held in the condominium form of ownership that is governed by the same board, and that exceeds 50,000 gross square feet in total combined floor area, but that does not exceed 100,000 gross square feet in total combined floor area.

(m) “Owner” means any of the following:

- (1) An individual or entity possessing title to a covered property;

(2) The lessee of a building subject to a lease that assigns maintenance, utility fees, real estate taxes, regulatory compliance, and/or capital improvement costs to the lessee. The individual or entity possessing title to such property may designate the lessee as “owner” for purposes of compliance with this subsection; such designation must be provided in writing to the director and must include such lessee’s contact information;

(2) The lessee of a building subject to a lease that assigns maintenance, utility fees, real estate taxes, regulatory compliance, and/or capital improvement costs to the lessee. The individual or entity possessing title to such property may designate the lessee as “owner” for purposes of compliance with this subsection; such designation must be provided in writing to the director and must include such lessee’s contact information;

(3) The board in the case of a condominium;

(4) The board in the case of a cooperative apartment corporation; or

(5) An agent authorized, in writing on file with director, to act on behalf of any of the above.

(n) “Person” means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all federal, state or local governmental entities.

(o) “Reported benchmarking information” means information both defined and generated by the ENERGY STAR Portfolio Manager and descriptive information about the covered property and its operational characteristics that are submitted to the director as follows:

(1) Descriptive information:

- a. Building ID, as assigned by the director;
- b. Property Address & Contact Information;
- c. Primary Property Type(s); and
- d. Gross Floor Area(s);

(2) Output information (generated by ENERGY STAR Portfolio Manager), limited to the following:

- a. Weather Normalized Site & Source Energy Use Intensity (Site EUI & Source EUI);
- b. Direct & Indirect Greenhouse Gas Emissions;

- c. Indoor & Outdoor Water Use;
- d. The ENERGY STAR score, if available; and
- e. Data Accuracy.

(p) “Tenant” means a person occupying or holding possession of a covered property, or part of a covered property, pursuant to a rental or lease agreement.

 (q) “Utility” means an entity that distributes and sells water, natural gas, electricity, thermal energy services or other energy for covered property.

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Sec. 17-3. Benchmarking and Benchmarking Submission Required.

 (a) An individual or entity possessing title to a covered property shall provide the contact information for any owners as defined in Section 17-2(m).

 (b) Every owner shall annually provide a benchmarking submission for each covered property to the director, in an electronic form as established by the director’s rule, by the date specified below:

- (1) No later than May 1, 2016, and no later than every May 1 thereafter, each Group 1 covered property shall be benchmarked for the previous calendar year by the entity primarily responsible for the management of such property.
- (2) No later than May 1, 2017, and no later than every May 1 thereafter, the owner of a Group 2 covered property shall benchmark such property for the previous calendar year.
- (3) No later than May 1, 2018, and no later than every May 1 thereafter, the owner of a Group 3 covered property shall benchmark such property for the previous calendar year.

Prior to making any benchmarking submission, the owner of a covered property shall run all data through all data quality assurance tools within the ENERGY STAR Portfolio Manager, and correct all missing or incorrect information identified by the tool.

(c) Where the current owner learns that any information reported as part of a benchmarking submission is inaccurate or incomplete, the information so reported shall be amended in the benchmarking tool by the owner and the owner shall provide an updated benchmarking submission to the director within 30 days of learning of the inaccuracy.

(d) The director may exempt from the benchmarking requirements the owner of a covered property that submits a request, together with documentation, in a form prescribed by the director's rule, at least thirty (30) days prior to any benchmarking submission deadline, establishing any of the following criteria:

- (1) The property does not have a certificate of occupancy or temporary certificate of occupancy for all 12 months of the calendar year being benchmarked.
- (2) A demolition permit has been issued during the prior calendar year, provided that demolition work has commenced, energy-related systems have been compromised and legal occupancy is no longer possible prior to May 1 for the applicable year.
- (3) The covered property had average physical occupancy of less than 50 percent throughout the calendar year for which benchmarking is required.
- (4) The director determines that, due to special circumstances unique to the applicant's facility and not based on a condition caused by actions of the applicant, strict compliance with provisions of this ordinance would cause undue hardship or would not be in the public interest.
- (5) The property is primarily used for manufacturing or other industrial purposes for which benchmarking results would not meaningfully reflect covered property energy use characteristics due to the intensive use of process energy.
- (6) The owner is unable to benchmark due to the failure of either a utility or a tenant (or both) to report the information necessary for the owner to complete any benchmarking submittal requirement.

Any owner requesting such an exemption shall provide the director any and all documentation requested to substantiate the request or otherwise assist the director in the exemption determination. Any exemption granted shall be limited to the benchmarking submission for which the request was made and shall not extend to past or future submittals unless so authorized by the director.

(e) Nothing in this article shall be construed as to prevent a person in control of a building, not otherwise a covered property, from submitting any benchmarking information to the director, otherwise in accordance with this article. The director may enter into agreements with any such persons governing any such participation.

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Approved as to form and legality:

Eluard Alegre
Assistant City Attorney

