

**1-O-25**

**AN ORDINANCE**

**Amending Title 4, Chapter 22 and Amending Title 2 to add Chapter 21 to the City Code**

**WHEREAS**, in December, 2016, the Evanston City Council passed Ordinance 33-O-16 to track and disclose building energy and water consumption in order to promote energy conservation, reduce greenhouse gas emissions, and improve overall environmental quality in buildings over 20,000 square feet in Evanston; and

**WHEREAS**, in November, 2018, the Evanston City Council accepted and placed on file the Climate Action and Resilience Plan (“CARP”), which established goals to reduce building energy consumption by 35% by 2035 and 50% by 2050 from 2005 levels, and to reach net-zero greenhouse gas emissions by 2050; and

**WHEREAS**, upon passage, CARP goals were science-based and aligned with the goals of the Intergovernmental Panel on Climate Change and since passage of CARP, CARP goals align with the State of Illinois goals; and

**WHEREAS**, Commonwealth Edison (“ComEd”) has a goal to be net-zero by 2050, and according to Section 220 of the Illinois Compiled Statutes 5/8-101, ComEd has an obligation to serve its customer base without discrimination and without delay, and charges or service to the public shall be just and reasonable; and

**WHEREAS**, in January, 2022, the Evanston City Council committed to inclusively design and implement building performance standards through the National Building Performance Standard Coalition; and

**WHEREAS**, in March, 2022, the Evanston City Council accepted and placed on file the Municipal Operations Zero Emissions Strategy to decarbonize city operations by 2035 to comply with CARP goals; and

**WHEREAS**, in April, 2022, the Evanston City Council passed Resolution 32-R-22 declaring a climate emergency and an immediate mobilization effort to reduce emissions; and

**WHEREAS**, 80% of greenhouse gas emissions in Evanston are attributable to building energy use, nearly half of emissions are attributable to buildings over 20,000 square feet, and natural gas use has remained approximately constant for 20 years and the emissions intensity of natural gas will never approach zero; and

**WHEREAS**, it is in the public's best interest to pursue a "just transition," defined by the International Labour Organization as "greening the economy in a way that is as fair and inclusive as possible to everyone concerned, creating decent work opportunities and leaving no one behind;" and

**WHEREAS**, equitable building decarbonization is complex and requires public, transparent, and participatory decision-making and rulemaking processes, which leveraging leverage the expertise of community members and consider the financial and practical impact on affected stakeholders; and

**WHEREAS**, at the conclusion of the public, transparent, and participatory decision-making and rulemaking processes, the City of Evanston City Council will amend this Ordinance to include the details pertaining to interim and final metric standards, the process for an alternative compliance pathway, and all additional details and regulations that the process identifies as necessary; and

**WHEREAS**, the Evanston City Council finds it in the best interest of the City of Evanston to adopt Ordinance 1-O-25.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:**

**SECTION 1:** Title 4, Chapter 22 of the Evanston City Code of 2012, as amended, is hereby further amended as follows:

**CHAPTER 22 – BUILDING ENERGY AND WATER USE BENCHMARKING AND BUILDING PERFORMANCE STANDARDS.**

**4-22-1. – SHORT TITLE.**

This Chapter is titled and may be cited as the “Building Energy and Water Use Benchmarking Ordinance.” and the “Healthy Buildings Ordinance.”

**4-22-2. – PURPOSE.**

The purpose of this Chapter is to promote the public health, safety, and welfare by requiring certain buildings within the City of Evanston to track and disclose building energy and water consumption, and requiring them to efficiently reduce greenhouse gas emissions while ensuring equitable decision-making. ~~in order to promote energy conservation, reduce greenhouse gas emissions, and improve overall environmental quality.~~

**4-22-3. – DEFINITIONS.**

For purposes of this Chapter the following definitions apply:

<u>BASELINE PERFORMANCE VALUE.</u>	<u>For any performance metrics of any covered property, the value of the performance metrics in the baseline year defined by the City Manager or the City Manager’s designee.</u>
<u>BASELINE YEAR.</u>	<u>A twelve-month period no earlier than the first verified benchmarking year selected by the City Manager or the City Manager’s designee, in collaboration with the owner of the covered property, for each covered property for each performance metric.</u>
<u>BENCHMARK.</u>	To track and input a building’s energy and water consumption data and other relevant building information in any given calendar year as required by the benchmarking tool, to quantify the

	building's total energy and water use.
<del>BENCHMARKING TOOL.</del>	<del>The website based software, commonly known as "ENERGY-STAR Portfolio Manager," developed and maintained by the United States Environmental Protection Agency. 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.</del>
<del>CERTIFICATE OF OCCUPANCY.</del>	<del>The certificate issued by the Community Development Department allowing building occupancy or use, as required under the International Building Code adopted in City Code Section 4-2-1.</del>
<del>CERTIFIED PROFESSIONAL.</del>	<del>A professional engineer or a registered architect licensed in the State of Illinois, or another trained individual acceptable to the City Manager or his or her <u>the City Manager's</u> designee.</del>
<del>CITY BUILDING.</del>	<del>Any municipally owned building or group of buildings that have the same property identification or index number (PIN), having a gross floor area of ten thousand (10,000) square feet or more, as identified by the City Manager or his/her designee.</del>
<del>COVERED BUILDING PROPERTY.</del>	<p><del>Any Type 1, Type 2, or Type 3 Covered Building as defined by this Chapter. The term "covered building" does not include any building whose primary occupancy use is classified as Assembly Group A-5 uses, Factory Group F uses, Storage Group S uses, High Hazard Group H uses, or Utility and Miscellaneous Group U uses, as defined by Chapter 3 "Use and Occupancy Classification" of the International Building Code adopted pursuant to City Code Section 4-2-1.</del></p> <p><u>Any building including:</u></p> <p><u>(A) A building or group of [adjacent] buildings with the same owner(s), having a gross floor area or combined gross floor area of 20,000 square feet or more;</u></p> <p><u>(B) A municipally-owned building or group of adjacent buildings having a gross floor area or combined gross floor area of 10,000 square feet or more.</u></p> <p><u>Excluding:</u></p> <p><u>(C) Condominium buildings less than 50,000 square feet as defined in City Code Section 5-4-1-7, and co-op</u></p>

	<p><u>buildings;</u></p> <p><u>(D) Individually owned units or spaces within a covered property that are sub-metered or otherwise subject to easy determination of the resource consumption attributable to each individual building, space, or group of buildings or spaces, may be treated as separate covered properties or exempted. The City Manager or the City Manager’s designee, in their sole discretion, shall determine whether and which buildings and spaces are subject to this exception;</u></p> <p><u>(E) Properties owned by the federal government;</u></p> <p><u>(F) Buildings for which a demolition permit has been issued;</u></p> <p><u>(G) Properties that did not have a certificate of occupancy or temporary certificate of occupancy for all twelve months of the year prior to the current benchmarking deadline;</u></p> <p><u>(H) Properties that:</u></p> <ul style="list-style-type: none"> <li><u>(i) have arrears of property taxes or water or refuse charges within the two (2) years prior to an interim or final performance standard, such that they are on the Cook County annual tax lien sale list; or</u></li> <li><u>(ii) have a court-appointed receiver in control of the property due to financial distress; or</u></li> <li><u>(iii) have a senior mortgage subject to a notice of default.</u></li> </ul>
<p><u>DISTRICT ENERGY SYSTEM.</u></p>	<p><u>A system serving multiple covered properties and consisting of thermal energy generation, transfer, and distribution equipment providing thermal energy in the form of heat and/or heat rejection.</u></p>
<p><u>DISTRICT THERMAL ENERGY.</u></p>	<p><u>Energy in the form of heat and/or heat rejection sources provided by a district energy system for use in a covered property’s space temperature, humidity control, or service hot water heating. District thermal energy shall be calculated as the energy input necessary to generate, transfer, and distribute thermal energy to the covered property based on a formula developed by the City Manager or the City Manager’s designee for allocating all energy</u></p>

	<p>consumed by the district energy system. To the extent that <u>published and verified metered data is not available for any of the district energy system's energy inputs or outputs, the formula shall assume maximum plausible levels of site energy use and greenhouse gas emissions.</u></p>
<p><u>ENERGY AND WATER BENCHMARKING TOOL.</u></p>	<p><u>ENERGY STAR Portfolio Manager web-based tool developed by the United States Environmental Protection Agency, or any alternative system or tool approved by the City Manager or the City Manager's designee that rates the performance of a covered property in relation to similar buildings and accounts for the impacts of year-to-year variations, including but not limited to variations in weather, building size, and location.</u></p>
<p><u>ENERGY PERFORMANCE SCORE.</u></p>	<p>The 1 to 100 numerical score produced by the <u>Energy and Water 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 total energy use, operating characteristics, and geographical location.</u></p>
<p><u>ENERGY USE INTENSITY ("EUI").</u></p>	<p>The total annual energy consumed by a building per gross-square-foot.</p>
<p><u>EQUITY PRIORITIZED BUILDING.</u></p>	<p><u>A covered property including but not limited to a public institution, religious institution, nonprofit organization, affordable housing, or other covered property so designated by the Healthy Buildings Accountability Board as an Equity Prioritized Building.</u></p> <p><u>A covered property so designated by the Healthy Buildings Accountability Board as an Equity Prioritized Building. Such properties may include but are not limited to public institutions, religious institutions, nonprofit organizations, and affordable housing.</u></p>
<p><u>GREENHOUSE GAS (GHG) EMISSIONS.</u></p>	<p><u>Gases released into the atmosphere that contribute to climate change, including but not limited to carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), and nitrous oxide (N<sub>2</sub>O). Greenhouse gas emissions are expressed in metric tons of carbon dioxide equivalent (CO<sub>2</sub>e). In calculating greenhouse gas emissions, the City Manager or the City Manager's designee may include leakage and other emissions resulting from extraction, processing and distribution of fuels to the extent practical.</u></p>
<p>GROSS FLOOR AREA.</p>	<p><u>The total covered property area, measured between the outside surface of the exterior walls of the covered property's building(s). The City Manager or the City Manager's designee shall publish</u></p>

	<u>guidance governing the calculation of gross floor area, including areas that shall be excluded from the calculation. "Gross Floor-Area" as defined in the United States Environmental Protection-Agency's ENERGY STAR Portfolio Manager, as amended.</u>
<u>PERFORMANCE STANDARD.</u>	<u>The numeric value of a performance metric, which covered properties shall achieve by the applicable time and each year thereafter.</u>
<u>NORMALIZED SITE ENERGY.</u>	<u>The site energy use by the covered property normalized for weather and other characteristics within the limits of the capabilities of the energy and water benchmarking tool and normalized for other factors at the discretion of the City Manager or the City Manager's designee.</u>
<u>NORMALIZED SITE ENERGY USE INTENSITY (EUI).</u>	<u>Is equal to normalized site energy divided by gross floor area.</u>
<u>NORMALIZED ONSITE AND DISTRICT THERMAL GREENHOUSE GAS EMISSIONS.</u>	<u>Total annual greenhouse gas emissions attributable only to: 1) energy consumed on the covered property; or 2) energy consumed indirectly through use of district thermal energy.</u>
<u>OWNER.</u>	<p><u>Includes any of the following:</u></p> <p><u>(A) An individual or entity with legal title to a covered property;</u></p> <p><u>(B) The board of the owners' association, in the case of a covered property that is a condominium;</u></p> <p><u>(C) The master association, in the case of a condominium, where the powers of an owners' association are exercised by or delegated to a master association;</u></p> <p><u>(D) The board of directors, in the case of a cooperative apartment corporation; or</u></p> <p><u>(E) An agent authorized to act on behalf of any of the above.</u></p> <p><u>"Owner" has the meaning ascribed to the term in City Code Section 6-18-3.</u></p>
<u>PERFORMANCE</u>	<u>Each of the three objectively verifiable numeric measures of</u>

<u>METRIC.</u>	<u>building performance regulated by this ordinance: maximum normalized site energy use intensity, maximum normalized onsite and district thermal greenhouse gas emissions, and minimum renewable electricity procurement.</u>
<u>PROPERTY TYPE.</u>	<u>A category of covered properties subject to the same interim and final performance standards, as defined by the City Manager or the City Manager’s designee. Covered properties within each property type shall have shared characteristics that facilitate the implementation and enforcement of the ordinance.</u>
<u>RENEWABLE ELECTRICITY.</u>	<u>Electricity generated from photovoltaic, solar thermal, geothermal energy, and wind systems located on- or off-site of the covered property.</u>
<u>REPORTED BENCHMARKING INFORMATION.</u>	Descriptive information about a building, its operating characteristics, and information generated by the benchmarking tool related to the building's energy consumption and efficiency. Reported benchmarking information includes, but is not limited to, the building identification number, address, gross floor area, energy performance score (if available), energy use intensity, water use and annual greenhouse gas emissions.
<u>SITE ENERGY USE.</u>	<u>Total energy consumed, regardless of source, annually at a covered property to provide heating, cooling, lighting, water heating, cooking, refrigeration or any other end use. It is measured in thousand British thermal units (“kBTU”). It does not include separately-metered electricity used to charge vehicles or energy used for other purposes deemed in the discretion of the City Manager or the City Manager’s designee to be unrelated to the operation of the building(s). It includes, but is not limited to, electricity, natural gas, steam, fuel oil, diesel, propane, district thermal energy, and renewable electricity generated and consumed onsite , or other product, and shall be modified at the discretion of the City Manager or the City Manager’s designee.</u>

<del>TYPE 1 COVERED BUILDING.</del>	<del>Any building or group of buildings that have the same property identification or index number (PIN), having a gross floor area of one hundred thousand (100,000) square feet or more, as identified by the City Manager or his/her designee.</del>
<del>TYPE 2 COVERED BUILDING.</del>	<del>Any building or group of buildings that have the same property identification or index number (PIN), having a gross floor area of fifty thousand (50,000) square feet or more but less than one hundred thousand (100,000) square feet, as identified by the City Manager or his/her designee.</del>
<del>TYPE 3 COVERED BUILDING.</del>	<del>Any building or group of buildings that have the same property identification or index number (PIN), having a gross floor area of twenty thousand (20,000) square feet or more but less than fifty thousand (50,000) square feet, as identified by the City Manager or his/her designee, excluding condominiums as defined in City Code Section 5-4-1-7.</del>

#### **4-22-4. – BUILDING PERFORMANCE BENCHMARKING DISCLOSURE.**

(A) In accordance with the schedule under City Code Section 4-22-5, the owner of any covered building property must submit reported benchmarking information for the previous calendar year, using the benchmarking tool, as required by the City Manager or his/her the City Manager's designee.

(B) The City Manager or his/her the City Manager's designee must prepare and submit an annual report to the Mayor and the City Council for review and evaluation of the energy and water efficiency in covered buildings properties, including, but not limited to, summary statistics on the most recent reported energy and water benchmarking information.

(C) The City Manager or his/her the City Manager's designee is authorized to make reported benchmarking information readily available to the public, except to the extent allowable under applicable law, the City Manager or his/her the City Manager's designee will not make readily available to the public any individually-attributable reported benchmarking information from the first calendar year that a covered building property is required to benchmark.

#### **4-22-5 4-1. – BENCHMARKING REQUIREMENTS.**

(A) The owner of any covered building property must retain all information for the previous calendar year and input any and all descriptive information required by the benchmarking tool into the benchmarking tool for the previous calendar year. ~~The owner must input this information according to the following schedule: Every covered property must annually provide data by June 30 for the previous calendar year.~~

- ~~1. City Buildings and Type 1 Covered Buildings must provide data for the 2016 calendar year by June 30, 2017 and for every year thereafter by every subsequent June 30;~~
- ~~2. Type 2 Covered Buildings must provide data for the 2017 calendar year by June 30, 2018 and for every year thereafter by every subsequent June 30; and~~
- ~~3. Type 3 Covered Buildings must provide data for the 2018 calendar year by June 30, 2019 and for every year thereafter by every subsequent June 30.~~

(B) ~~Exception. The City Manager or his/her designee may exempt from the benchmarking requirement the owner of a covered building that submits documentation establishing any of the following:~~

- ~~1. 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~~
- ~~2. The building had average physical occupancy of less than fifty percent (50%) throughout the calendar year for which benchmarking is required; or~~
- ~~3. The building is a new construction and the building's certificate of occupancy was issued during the calendar year for which benchmarking is required.~~

~~(C)~~(B) Retention of Records. Each owner is responsible for retaining the previous three (3) years' worth of benchmarking data, where applicable.

#### **4-22-6 4-2. – BUILDING DATA VERIFICATION.**

~~(A) *Data Verification.* Prior to the first benchmarking deadline in City Code Section 4-22-5 and prior to each third benchmarking deadline thereafter, the owner of a covered building must ensure that reported benchmarking information for that year is verified by a certified professional. Such verification must be in a form of a signed statement by a certified professional attesting to the accuracy of the information. The owner of a covered building must produce such statement for the most recent year in which verification of reported benchmarking information was required upon a written request by the City Manager or his/her designee.~~

Beginning January 1, 2026, the owner of a covered property must ensure that reported baseline performance values and reported data for interim performance standards and final performance standards are verified by a certified professional. Such verification must be in a form of a signed statement by a

certified professional attesting to the accuracy of the information. The owner of a covered property must produce such statement for the most recent year in which verification of reported benchmarking information was required upon a written request by the City Manager or the City Manager's designee.

~~(B) — *Exception.* The City Manager or his/her designee may exempt from the verification requirement the owner of a covered building that submits documentation establishing that compliance with this Section will cause undue financial hardship.~~

#### **4-22-7 4-3. – SOLICITATION OF COMPLIANCE INFORMATION**

Within thirty (30) calendar days of a request by the building owner, each tenant of a unit in a covered building property must 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~~ Section 4-22-4.

Any owner of a covered building property must request such information no later than March 1 of the years in which benchmarking is required by City Code Section 4-22-5 4-1. If the owner of a covered building property receives notice that a tenant intends to vacate a unit which is subject to the requirements of this Section, the owner must request the information specified in this Section within ten (10) calendar days of such notice, and the tenant must provide such information within thirty (30) calendar days of the request.

The failure of any tenant to provide the information required under this Section to the owner of a covered building property does not relieve such owner of the obligation to benchmark the building as provided in City Code Section 4-22-5 4-1, 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 property creates 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 property fails to provide information to the owner of the building as provided in this Section, the owner is deemed to be in compliance with City Code Section 4-22-5 4-1 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 City Code Section 4-22-5 4-1, using all information otherwise available to the owner.

#### **4-22-8 4-4. – ENFORCEMENT.**

The City Manager or ~~his/her~~ the City Manager's designee is authorized to enforce this Chapter Section 4-22-4. The City Manager or ~~his/her~~ the City Manager's designee is

also authorized to adopt rules and regulations for the proper administration and enforcement of this Chapter Section 4-22-4.

#### **4-22-9 4-5. – NOTICE OF VIOLATION.**

Whenever the City Manager or ~~his/her~~ the City Manager's designee determines that an owner fails to meet any requirement of this Chapter Section 4-22-4, ~~he/she~~ the City Manager or the City Manager's designee must give written notice to the owner. Such notice must include, but not limited to, stating a statement that the owner failed to comply with the requirements of this Chapter Section 4-22-4 and that the owner has twenty (20) calendar days to comply with the applicable requirement. The notice must be in writing and may be served in person or sent by certified mail, return receipt requested. The notice must provide any recipient an opportunity to file a written request for a hearing with the City Manager or ~~his/her~~ the City Manager's designee by the owner within twenty (20) calendar days. Failure to respond to the notice or failure to comply with the applicable requirements requested therein constitutes a violation of this Chapter Section 4-22-4 by the owner.

#### **4-22-10 4-6. – HEARINGS.**

If a written request is filed within twenty (20) calendar days, an opportunity for a hearing with the City Manager or ~~his/her~~ the City Manager's designee must be afforded within ten (10) calendar days of receipt of the request. The hearing ~~shall will be conducted by the City Manager or his/her designee~~ affording the owner an opportunity to appear and show cause as to how they have complied with the provisions of this Chapter Section 4-22-4. The City Manager or ~~his/her~~ the City Manager's designee ~~will~~ shall make a final decision in writing, including the reasons for such decision, and will serve said decision on the owner subject to the provisions of this Chapter Section 4-22-4 within ten (10) calendar days after the conclusion of the hearing.

#### **4-22-11 4-7. - PENALTY.**

Any person who violates any provision of this Chapter Section 4-22-4 will be fined ~~one hundred~~ two hundred and fifty dollars (\$~~100.00~~ 250.00) for each such offense. Every month a violation continues will be deemed a separate offense.

#### **4-22-12. - SEVERABILITY.**

~~If any provision of this Chapter or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity must not affect other provisions or applications of this Chapter that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Chapter is severable.~~

#### **4-22-5. – HEALTHY BUILDINGS.**

**4-22-5-1. – BUILDING PERFORMANCE STANDARDS.**

(A) Each covered property in the City of Evanston must by 2050 meet and maintain the following final performance standards, as established by the rulemaking process:

1. Energy efficiency as measured by maximum normalized site EUI,
2. Zero normalized onsite and district thermal greenhouse gas emissions,
3. 100 percent of electricity usage sourced through renewable electricity.

(B) Property types shall be established such that every covered property shall fall within a property type.

(C) Beginning [June 30, 2031], each covered property shall annually demonstrate progress toward the final performance standard(s) by meeting the interim performance standard(s) set by the City Manager or the City Manager's designee for the covered property.

(D) The City Manager or the City Manager's designee, along with the Healthy Buildings Technical Committee, shall calculate each interim performance standard for each covered property, based on its property type designation(s), for every 60 month period, so that interim performance standards must be met with twelve months of reported data from the calendar years 2030, 2035, 2040, 2045, and 2050.

(E) Unless otherwise directed by the City Manager or the City Manager's designee, the final performance standards for any covered property containing multiple property types shall be calculated on a pro rata basis based on the square footage of each property type within the covered property, in accordance with the ENERGY STAR method of pro rata calculation, or an alternative methodology approved by the Healthy Buildings Technical Committee.

(F) At the direction of the City Manager or the City Manager's designee, a covered property that is redeveloped or that undergoes a substantial renovation or change of occupancy may be assigned to a different property type. The covered property shall be required to achieve the interim performance standards and final performance standard for the revised property type.

(G) At the discretion of the City Manager or the City Manager's designee, multiple covered properties may apply to be considered a campus or a portfolio. Any such adjustment shall be made in consultation with the Healthy Buildings Accountability Board.

**4-22-5-2. – ALTERNATIVE COMPLIANCE PATHWAY PLANS.**

(A) If an owner believes that a covered property cannot reasonably meet one or more of the applicable interim or final performance standards, then the owner may propose an Alternative Compliance Pathway Plan (“ACPP”) to the City Manager or the City Manager’s designee for their approval using the Alternative Compliance Pathway Plan Form. The ACPPs shall include, at a minimum, options for timeline adjustments, and/or adjustments or exemptions to one or more interim or final performance standards, such as achieving net-zero emissions rather than zero onsite emissions, on a covered property whose owner submits a request, together with documentation, in a form prescribed by the City Manager or the City Manager’s designee, at any time, but at least [180] days prior to any interim or final performance standard submission deadline.

(B) The City Manager or the City Manager’s designee shall establish rules and deadlines governing ACPPs, including regarding whether the City Manager or the City Manager’s designee shall publish some or all of ACPPs and criteria for such publication decisions. The rules governing ACPPs shall specify the requirements for any use of certified carbon offsets, verified carbon credits, payments to local decarbonization funds, or other mechanisms that may support alternative compliance. Once an ACPP for a covered property is approved by the City Manager or the City Manager’s designee, then the covered property shall be in compliance with this ordinance so long as the terms of the ACPP are fulfilled. The ACPP may establish provisions to cure any noncompliance with the ACPP; if these are not included in the ACPP, then penalty provisions of section 4-22-5-6 of this ordinance shall apply. The ACPP constitutes a binding agreement between the owner of the covered property and the City Manager or the City Manager’s designee and shall be recorded as a covenant that runs with the land in the property records for the covered property at the appropriate office for the recording of deeds.

(C) When seeking to sell a property, the owner of any covered property or any portion of a covered property subject to a ACPP, the owner shall include a reference to the ACPP in any listings, notices, advertisements of sale, term sheets, or contracts of sale. At least three weeks prior to listing a covered property or any portion of a covered property, the owner shall apply to City Manager or the City Manager’s designee for a certification that the covered property is in compliance with this law and provide the certification to the buyer. City Manager or the City Manager’s designee shall include in any certification a reference to any ACPP to which the covered property is subject.

(D) *Prohibition of Unnecessary Delays in Improvement.* Approval of the ACPPs is within the sole discretion of the City Manager or the City Manager’s designee and will not be approved simply for the convenience of the owner or as a means to delay improvements that reasonably could be done in order to avoid the ACPP. However, no ACPP shall be unreasonably denied by the City Manager or the City Manager’s designee. ACPPs may be granted based on financial hardship and/or occupancy as defined by the Healthy Buildings Accountability Board.

(E) Due to the large and complex nature of District Thermal Energy systems, the Owners of such systems shall have the right to propose an ACPP.

(F) The owner of a covered property may cancel, revise, or submit multiple ACPPs, subject to the aforementioned submission and approval processes.

(G) Decisions pursuant to this section by the City Manager or the City Manager's designee shall be appealable to the Healthy Buildings Accountability Board.

#### **4-22-5-3. – RULES AND GUIDANCE.**

The City of Evanston City Council will amend this Ordinance to include the details pertaining to interim and final metric standards, the establishment of fines, the application process for an alternative compliance pathway plan, and all additional details and regulations that the rulemaking bodies may propose as necessary. From time to time, the City Manager or the City Manager's designee may issue such guidance and propose such additional rules as deemed in its discretion necessary to carry out the provisions of this ordinance, including but not limited to adjustments to off-site renewable energy, alternative compliance, reporting and data verification requirements for all submissions required by the City Manager or the City Manager's designee.

#### **4-22-5-4. – ENFORCEMENT.**

No enforcement of performance standards shall begin until the rulemaking process is complete and interim and final performance standards are approved by City Council.

#### **4-22-5-5. – TRANSPARENCY.**

The City Manager or the City Manager's designee shall publish each building's final and interim performance standards and its performance against those standards across every performance metric beginning [2] years after the initial interim performance standards are determined.

#### **4-22-5-6. – OWNERSHIP OR LEASE CHANGES.**

Owners of covered properties shall comply with all applicable interim and final performance standards at the applicable compliance dates published by the City Manager or the City Manager's designee. Responsibility to comply shall not be affected by changes in ownership, owner/tenant lease language or changes thereto. Owners shall clearly and prominently notify a tenant, in writing signed by the tenant, if the owner intends to pass on fines to a tenant. Such written, signed notification shall either be incorporated into a lease agreement or executed contemporaneously with the lease agreement.

#### **4-22-5-7. – PENALTY.**

(A) An owner whose covered property fails to perform to the level of an interim or final performance standard by the applicable compliance date shall be required to pay a fine. The fine should reflect:

1. the total number of interim or final performance standards with which an owner has failed to comply;
2. the assessed value of the covered property, for properties that are subject to routine assessments performed by the Cook County Assessor'; and
3. the magnitude of non-compliance under each performance metrics.
4. The financial impact on the covered property.

(B) If an owner fails to report one or more values for one or more performance metrics subject to one or more interim or final performance standards for a covered property, then, for purposes of calculating the fine, for each of the performance metrics that was not reported, the covered property shall be assumed to have performed at a level [30%] worse than the worst-performing property of the covered property's property type for that performance metric.

Any owner subject to a fine shall make required payments [annually] until such time as the covered property meets all of the applicable interim and final performance standards.

(C) At least ninety percent [ 90%] of fines collected under this ordinance shall be used to support performance improvements to privately-owned properties within ~~Evanston~~ earmarked to a decarbonization fund established to provide financial assistance to covered properties that qualify on a need-basis.

#### **4-22-5-8. – MAINTENANCE OF RECORDS.**

Owners shall maintain records as the City Manager or the City Manager's designee determines necessary for carrying out the purposes of this ordinance, including, but not limited to, energy bills and reports or forms received from tenants and/or utilities, fines, ACPPs, and records demonstrating compliance with interim or final performance standards. Such records shall be preserved for a period of [6] years. At the request of the City Manager or the City Manager's designee, such records shall be made available for inspection and audit by the City Manager or the City Manager's designee. When a covered property is sold, the records shall be given to the new owner.

#### **4-22-6. – SEVERABILITY.**

If any provision of this Chapter or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity must not affect other provisions or applications of this Chapter that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Chapter is severable.

**SECTION 2:** Title 2 of the Evanston City Code of 2012, as amended, is hereby further amended to add Chapter 21, as follows:

**2-21-1. - HEALTHY BUILDINGS ACCOUNTABILITY BOARD.**

**(A) Purpose.**

The City Council establishes the Healthy Buildings Accountability Board (HBAB) as an oversight body that is authorized to make recommendations and decisions related to decarbonization policies and programs, including but not limited to the Healthy Buildings Ordinance, for the following purposes:

1. To provide a community-led equity lens for climate action;
2. To provide a systematic means of considerations for equity-based adjustments to climate action taken by the City;
3. To provide a timely, fair, and objective review of the implementation of climate action taken by the City.

**(B) Membership.**

The Board shall consist of [7] members appointed by the Mayor, subject to confirmation by the City Council. At least [5] members of the Board shall be residents of Evanston.

The Healthy Buildings Accountability Board shall consist of nine (9) members. Three (3) of these members shall be those appointed to the Healthy Buildings Technical Committee (HBTC), that were nominated by building owners, as set forth in Section 2-21-2(C), and the remaining six (6) members shall be appointed by the Mayor and confirmed by the City Council, selected for their expertise in racial and social equity, housing, affordability, environmental justice, and climate action. If the three (3) HBTC members nominated by building owners do not wish to serve on the HBAB, then the remaining members shall be appointed by the Mayor and confirmed by the City Council. At least [5] members of the Board shall be residents of Evanston.

Board members shall be appointed to three (3) year terms, provided that the initial appointments will include 3 terms of 3 years, 2 terms of 2 years, and 2 terms of 1 year. Members whose appointed terms have expired shall be permitted to continue to serve until reappointed or replaced by a new appointee.

All members must possess a reputation of fairness, integrity, and a sense of public service.

No current elected official, City employee, or family member of any City employee may serve on the Board.

The Board's members shall possess expertise in racial and social equity, housing, climate action, electrical engineering, mechanical engineering, district energy systems, affordability, preservation, and/or environmental justice. They shall represent stakeholders including but not limited to large covered properties and the public, non-profit, and private sectors.

The Board's members shall reflect the demographic makeup of the City of Evanston population, including but not limited to race, color, religion, national origin, sex, sexual orientation, gender identity, marital status, age, source of income, and physical or mental disability.

Members must commit to attending meetings regularly and participating in other initiatives of the Board.

Members shall be compensated for services rendered on a per meeting basis as established by rulemaking and subject to availability of funds.

(C) *Procedures and Organization.*

The Healthy Buildings Accountability Board shall:

1. Elect a chairperson to serve for the following calendar year with eligibility for reelection.
2. Elect a vice-chairperson to act whenever the chairperson is absent or unable to serve.
3. Establish its own rules of procedure that do not conflict with the City Code.
4. Establish such subcommittees as it deems necessary.
5. Provide quarterly updates during the rulemaking process, and provide a report for presentation to the City Council annually. Such report may shall :
  - a. incorporate comments on the adequacy of the Healthy Buildings Ordinance and the Climate Action and Resilience Plan as instruments of long-term climate action policy;
  - b. summarize the actions of the Board during the preceding calendar year; and
  - c. outline the program of the Board for the following year, including indicating joint programs to be carried out in cooperation with City Departments or other

boards, committees, and commissions, including any City staff needs.

- d. provide information on the impacts of the Healthy Buildings Ordinance on housing and commercial affordability and solutions identified to preserve affordability.

6. Adopt such other rules of procedure deemed necessary to conduct meetings and to carry out its duties, following Roberts' Rules of Order in situations not covered by adopted rules.

Meetings shall be held in conformance with the Open Meetings Act.

Individual Board members shall not contact any individual or their representative with a matter that is pending or scheduled to be heard by the Board, unless it is in a public meeting.

(D) Powers and Duties.

The Board shall have the following powers and duties:

1. To approve the methods for prioritizing equitable building decarbonization including, but not limited to, spatial and demographic indicators, and establish a list of Equity Prioritized Buildings, to be reviewed periodically;
2. To develop a plan for allocating funds from fines collected under this Ordinance and to ensure that those funds are used to benefit Equity Prioritized Buildings;
3. To advise on the development of rules for implementing the Ordinance and any complementary programs or policies, including the establishment and structure of fines;
4. To review and issue recommendations on Alternative Compliance Pathway Plans requested by covered properties on the basis of financial hardship or other extenuating factors;
5. To recommend metrics and data to track the Ordinance's impact on disinvested communities and Equity Prioritized Buildings;
6. To report to the City Council on matters concerning the Healthy Buildings Ordinance or other similar policies;

7. To advise on community priorities that could be advanced through additional Alternative Compliance Pathway Plan requirements.
8. To provide guidance on community outreach and engagement; and
9. To advocate for synergistic policies and programs to aid in equitable building decarbonization, and to review those policies and programs for equity implications.

(E) Appeal.

Determinations of the Board are appealable to City Council.

**2-21-2. - HEALTHY BUILDINGS TECHNICAL COMMITTEE**

(A) Purpose.

The City Council establishes the Healthy Buildings Technical Committee for the following purposes:

1. To develop rules and procedures implementing this Ordinance;
2. To provide community leadership in achieving necessary emissions reductions; and
3. To provide technical expertise on reaching this Ordinance's performance standards.

(B) Duration.

The Committee shall be dissolved after City Council has approved rules and procedures implementing this Ordinance in response to the Committee's recommendations, unless City Council votes to reauthorize the Committee.

(C) Membership.

The Committee shall consist of 5 six (6) members appointed by the Mayor, subject to confirmation by the City Council.

Two (2) members shall be nominated by the Neighborhood Building Owners Alliance and the Chicagoland Apartment Association. If after each group goes

through the nomination process twice, but the nominees fail to be confirmed by the City Council, the Mayor shall nominate a replacement for any unfilled position, subject to City Council approval.

One (1) member shall be nominated by the Building Owners and Managers Association. If, after two (2) nomination attempts, a nominee fails to be confirmed by the City Council, the Mayor shall nominate a replacement, subject to City Council approval.

Three (3) at-large members shall be nominated by the Mayor.

At least 3 members of the Committee shall be residents of Evanston. Members of the Committee may also serve as members of the Healthy Buildings Accountability Board.

Committee members shall be appointed to a term which concludes when City Council has approved rules and procedures implementing this Ordinance in response to the Committee's recommendations, subject to reauthorization by City Council.

Members shall possess applicable technical **building** expertise in areas related to energy utilities, district thermal energy systems, **buildings**, energy systems, heating, ventilation, air conditioning, electrical engineering, electrification, mechanical engineering, building science and automation, machine learning, retro commissioning or energy management.

No current elected official, City employee, or family member of any City employee may serve on the Committee.

All members must possess a reputation of fairness, integrity and a sense of public service.

Members must commit to attending meetings regularly and participating in other initiatives of the Board.

Members shall be compensated for services rendered on a per meeting basis as established by rulemaking and subject to availability of funds.

(D) *Procedure and Organization.*

The Committee shall:

1. Elect a chairperson to serve for the following calendar year with eligibility for reelection.
2. Elect a vice-chairperson to act whenever the chairperson is absent or unable to serve.

3. Establish its own rules of procedure that do not conflict with the City Code.
4. Adopt such other rules of procedure deemed necessary to conduct meetings and to carry out its duties, following Roberts' Rules of Order in situations not covered by adopted rules.
5. Report to the Healthy Buildings Accountability Board.

Meetings shall be held in conformance with the Open Meetings Act.

(E) Powers and Duties.

The Committee shall have the following powers and duties:

1. To develop and recommend rules for implementing this Ordinance;
2. To recommend final performance standards for each property type;
3. To recommend interim performance standards for each property type;
4. To establish and periodically review and revise the methodology by which the City Manager or the City Manager's designee will evaluate proposed Alternative Compliance Plans that facilitates the achievement of the final performance standard by all covered properties;
5. To recommend, review, and approve the draft and final Alternative Compliance Plan Form created in collaboration with the City Manager or the City Manager's designee;
6. To review the results of City aid, including but not limited to evaluations on Equity Prioritized Buildings, and provide expert advice to the Board related to determinations of need for City aid;
7. To aid in community outreach and engagement;
8. To advocate for synergistic policies and programs to aid in equitable building decarbonization.
9. To recommend, if necessary, the engagement of outside expert consultants to assist in executing the Committee's Powers and Duties.
10. To define net zero greenhouse gas emissions and determine the allowance of certified carbon offsets, verified carbon credits, payments to local decarbonization funds, or other mechanisms to reach compliance.

**SECTION 3:** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 4:** If any provision of this Ordinance or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid application of this Ordinance is severable.

**SECTION 5:** This Ordinance shall be in full force and effect after its passage and approval.

**SECTION 6:** The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Introduced: January 13, 2025

Approved:

Adopted: March 10, 2025

March 14, 2025

*Daniel Biss*  
box SIGN 4LR35Q59-4Q3L2PYP  
\_\_\_\_\_  
Daniel Biss, Mayor

Attest:

*Stephanie Mendoza*  
box SIGN 1RXPY3KL-4Q3L2PYP  
\_\_\_\_\_  
Stephanie Mendoza, City Clerk

Approved as to form:

*Alexandra B. Ruggie*  
box SIGN 1VWXZ88Z-4Q3L2PYP  
\_\_\_\_\_  
Alexandra B. Ruggie, Corporation Counsel