

# Administrative Rules

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## *City of Evanston Building Energy and Water Benchmarking Ordinance Rules*

The Evanston Benchmarking Administrative Rules are a set of rules developed by the City to provide clarification on how the City interprets different language and processes related to the energy and water benchmarking ordinance. The rules are one piece of the City’s implementation of the benchmarking ordinance. Additional materials such as the Evanston Benchmarking Guide, FAQ and Benchmarking Checklist can be found at [cityofevanston.org/benchmarking](http://cityofevanston.org/benchmarking).

Questions related to these rules or the ordinance in general should be directed to [benchmarking@cityofevanston.org](mailto:benchmarking@cityofevanston.org) or 847-448-4311, while in Evanston simply dial 3-1-1.

Updated 3/8/17

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## Definitions

Term	Definition
Benchmarking Tool	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.
Certified Professional	A professional engineer or a registered architect licensed in the State of Illinois, or another trained individual acceptable to the City Manager or his/her designee.
City	The City of Evanston
City Building	Any municipally owned building or group of buildings that have the same property identification or index number (PIN), containing 10,000 or more gross square feet, as identified by the City Manager or his/her designee.
City Code	The Evanston City Code of 2012, as amended.
City of Evanston Benchmarking Website	The City of Evanston website containing all relevant information regarding the Building Energy and Water Use Benchmarking Ordinance.
Covered Building Data Verification	Verification by a Certified Professional of a Covered Building's Reported Benchmarking Information.
Covered Building	Any Type 1, Type 2, or Type 3 Covered Building as defined by City Code Title 4, Chapter 22, "Building Energy and Water Use Benchmarking Ordinance." 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.
ENERGY STAR Portfolio Manager Data Verification Checklist	The document titled "Data Verification Checklist" customized through the ENERGY STAR Portfolio Manager website.
ENERGY STAR Portfolio Manager Guidance	Any guidance materials created by the US Environmental Protection Agency to support the use

	of the ENERGY STAR Portfolio Manager software. These are included, but not limited to, the ENERGY STAR Portfolio Manager website, FAQ, glossary, starter kit, and training tutorials.
Evanston Benchmarking Compliance Manual	A City of Evanston document available on the City of Evanston Benchmarking Website providing step-by-step guidance for building owners to comply with the Ordinance.
Evanston Benchmarking Custom Reporting Template	A custom reporting template available through a website link or URL by which the Owner will submit their Reported Benchmarking Information.
Evanston Benchmarking Guidance	Any guidance materials created by the City of Evanston to support compliance with the Benchmarking Ordinance. These materials include, but are not limited to: the City of Evanston Benchmarking Website, the Compliance Manual, and the Compliance Checklist.
Evanston Benchmarking ID	A unique identifier assigned to a designated Covered Building or group of Covered Buildings, as determined by the City.
Evanston Open Data Portal	The Evanston Open Data Portal is an online platform that the City of Evanston uses to make datasets publicly available.
Gross Floor Area	"Gross Floor Area" as defined in the United States Environmental Protection Agency's ENERGY STAR Portfolio Manager, as amended.
Ordinance	City of Evanston Title 4, Chapter 22, "Building Energy and Water Use Benchmarking Ordinance."
Owner	"Owner" has the meaning ascribed to the term in City Code Section 6-18-3.
Property Identification Number (PIN)	A number assigned to parcels of <a href="#">real property</a> by the <a href="#">tax assessor</a> of a particular <a href="#">jurisdiction</a> for purposes of identification and record-keeping.
Reported Benchmarking Information	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 square feet, energy performance score (if available), energy use intensity, water use and annual greenhouse gas emissions.

## Rule 1 - Identification of Covered Buildings

Rule Number	Rule Title	Rule Description
1.01	Covered Buildings	<p>Pursuant Section 4-22-5, the Ordinance covers</p> <ul style="list-style-type: none"> <li>I. Municipal buildings 10,000 square feet and larger;</li> <li>II. Commercial and non-condominium residential buildings 20,000 square feet and larger; and</li> <li>III. Condominium buildings 50,000 square feet and larger.</li> </ul>
1.02	Building Size	<p>Refers to the gross floor area, as defined by City Code Section 4-22-3:</p> <ul style="list-style-type: none"> <li>I. Gross square footage is not the same as rentable or leasable area, but rather includes all areas inside the building. Rentable or leasable space is a subset of gross square footage of a building.</li> <li>II. In the case that a building has an atrium, building Owners should count the gross square feet at the base level only.</li> <li>III. Gross square footage does not include exterior spaces such as driveways, balconies, or exterior loading docks.</li> </ul>
1.03	Building Occupancy	<p>Building occupancy is determined by how space is used within a building. Specific occupancy uses covered by the Ordinance are described in City Code Section 4-22-3.</p> <p>Common building occupancy uses covered by the Ordinance include, but are not limited to: commercial office, residential (including apartments buildings, cooperatives and condominiums), hospitals and other health care facilities, retail space, museums, and other cultural institutions, places of worship, banks, entertainment centers, restaurants, and other personal services facilities.</p> <p>Non-covered occupancy uses are listed in City Code Section 4-22-3 and are included in Appendix I.</p>
1.04	Identification of Covered Buildings	<p>The City may use multiple information sources to identify Covered Buildings, based on size and occupancy use. The City Manager or his/her designee may create a list of Covered Buildings for purposes of making such a list available to the public. The City may also notify Owners of their Covered Buildings' status or type, as determined by the City Manager or his/her designee.</p>
1.05	Obligation to Comply	<p>Lack of notification by the City 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 Rule 2. of these Administrative Rules.</p>
1.06	Evanston Benchmarking ID	<p>The City will assign a unique building identification number to each designated Covered Building to facilitate annual reporting of benchmarking data. Owners of Covered Buildings must include this Evanston Benchmarking ID in their buildings' ENERGY STAR</p>

		<p>Portfolio Manager profiles, according to Evanston Benchmarking Guidance and ENERGY STAR Portfolio Manager Guidance.</p> <p>If, however, the Owner of a Covered Building has not received an Evanston Building Benchmarking ID that does not relieve the Owner of the obligation to comply with the Ordinance. Such Owners may request an Evanston Building Benchmarking ID by filling out a request form which can be found on the benchmarking website.</p>
1.07	Request a Change of Building Designation	<p>If a building Owner does not agree with the designation of a building as a Covered Building the Owner may request a change in the building’s covered status or building use using a form prescribed by the City. The City may revise a building’s covered status or designation based on information provided by the Owner. Support resources for requesting a change of a building’s designation, along with other Ordinance compliance resources may be available via the City’s webpage.</p>
1.08	Building Ownership	<p>The Ordinance applies to Owners of Covered Buildings, as defined in City Code Section 4-22-3. This definition includes, but is not limited to, joint owners, tenants in common, tenant in partnership and joint tenant.</p>
1.09	Transfer of Ownership	<p>If a Covered Building changes ownership, the new Owner shall be responsible for benchmarking such building.</p>
1.10	Information Transfer	<p>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.</p>
1.12	Applying for an Exemption or Exception	<p>If an Owner of a Covered Building wishes to apply for an exemption or exception from the provisions of the ordinance an official City of Evanston request form must be submitted. A link to the official request can be found at <a href="http://cityofevanston.org/benchmarking">cityofevanston.org/benchmarking</a> or in the Evanston Benchmarking Compliance Manual.</p>

## Rule 2 - Mixed Use, Shared Systems, Shared Property Identification Numbers (PINs) and Other Special Cases

2.01	General	Due to variation in the configuration, systems, and ownership structure of some Covered Buildings, consideration may be given to the “special cases” outlined below to facilitate compliance with the Ordinance.
2.02	Mixed Use Building	Owners of Covered Buildings with mixed occupancy use shall benchmark, verify and report in the same manner as Covered Buildings with single use occupancy as described in Rules 4-6 of these Administrative Rules, according to Evanston Benchmarking Guidance and ENERGY STAR Portfolio Manager Guidance.
2.03	Multiple Buildings with Shared Energy Systems	Owners of multiple Covered Buildings that share one or more energy-consuming systems or energy, where energy is not metered separately or sub-metered for one or more energy types, may benchmark, verify, and report as a single property according to Evanston Benchmarking Guidance and ENERGY STAR Portfolio Manager Guidance. This rule applies to Covered Buildings with the same or multiple Property Identification Numbers (PINs).
2.04	Multiple Buildings with the Same Property Identification Number (PIN) and Separate Systems	<p>The Owner of multiple Covered Buildings that share the same PIN, have separate energy- or water-consuming systems, and are metered separately or sub-metered for all energy types (such as a university, corporate or other campuses where multiple Covered Buildings of various sizes share the same PIN) shall benchmark, verify, and report energy and water use separately for each building that is larger than 20,000 square feet according to ENERGY STAR Portfolio Manager Guidance and according to the compliance timeline described in Rule 3.01.</p> <p>The Owner of such Covered Buildings may request unique Evanston Benchmarking IDs for each separately benchmarked building through the process described in Rule 1.06.</p>
2.05	Single Buildings with Multiple Property Identification or Index Numbers (PIN)	The Owner or Owners of a single Covered Building with multiple PINs, <u>including condominiums</u> , shall benchmark, verify and report energy and water use for the entire building, according to ENERGY STAR Portfolio Manager Guidance.
2.06	Building Currently Ineligible to Receive Energy Star Scores	Owners of Covered Buildings that are not currently eligible to receive an ENERGY STAR score shall benchmark according to ENERGY STAR Portfolio Manager Guidance. The Benchmarking Tool enables Owners to calculate other relevant energy and water metrics, such as weather-normalized energy use intensity and water use intensity.
2.07	Notification to the City of Special Cases	To enable tracking of Covered Buildings with shared systems, shared Property Identification Numbers (PIN), and other special cases, the Owners of such buildings shall notify such special cases to the City through the process described in Rule 1.07.

## Rule 3 - Compliance Timeline

3.01	Benchmarking and Reporting Deadlines	<p>Pursuant to City Code Section 4-22-5(A), benchmarking and reporting deadlines are as follows:</p> <ul style="list-style-type: none"> <li>I. June 30, 2017 (and each June 30<sup>th</sup> thereafter): Covered Buildings 100,000 square feet or larger and City Buildings 10,000 square feet or larger;</li> <li>II. June 30, 2018 (and each June 30<sup>th</sup> thereafter): Covered Buildings 50,000 square feet or larger; and</li> <li>III. June 30, 2019 (and each June 30<sup>th</sup> thereafter): Covered Buildings 20,000 square feet or larger excluding condominium buildings as defined by Ordinance Section 4-22-3.</li> </ul>
3.02	Data Verification Deadlines	<p>Pursuant to City Code Section 4-22-6, Covered Building Data Verification must be conducted prior to the first benchmarking deadline prescribed by City Code Section 4-22-6(A) and prior to each third benchmarking deadline thereafter (refer to Rule 3.01 for benchmarking deadlines by building size).</p>
3.03	Time Period of Benchmarking	<p>Pursuant to City Code Section 4-22-5(A), 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 benchmarking is required.</p>
3.04	If the Benchmarking Tool is Unavailable	<p>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 City may temporarily extend those deadlines to enable compliance.</p>

## Rule 4 - Benchmarking Requirements

4.01	General	No later than June 30 <sup>th</sup> of any year 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 and water consumption data for all energy and water sources and Reported Benchmarking Information for January 1 <sup>st</sup> through December 31 <sup>st</sup> of the previous calendar year.
4.02	Benchmarking Using ENERGY STAR Portfolio Manager	<p>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 <a href="https://portfoliomanager.energystar.gov">https://portfoliomanager.energystar.gov</a>.</p> <p>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 and water use data and requested details on specific property uses.</p> <p>Owners of Covered Buildings are <i>not</i> required to track, verify or report any cost-related data, though Covered Buildings may choose to do so, according to ENERGY STAR Portfolio Manager Guidance.</p>
4.03	Whole Building Energy and Water Use Data	<p>ENERGY STAR Portfolio Manager requires whole-building energy and water use data. Owners of Covered Buildings may obtain this energy and water use through several sources, including: utility bills, utility aggregation services or (when other sources are unavailable) tenants or other occupants of spaces within the Covered Buildings.</p> <p>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.</p> <p>Whole-building water use data includes indoor, outdoor and a combination of both according to ENERGY STAR Portfolio Manager Guidance.</p>
4.04	Exempted Energy Use for Ancillary Building Activities	<p>Owners of Covered Buildings may choose to exclude from their ENERGY STAR Portfolio Manager profiles sub-metered or separately-metered energy consumption for the following services, systems or activities:</p> <ol style="list-style-type: none"> <li>I. Broadcast antennas</li> <li>II. Cellular towers</li> <li>III. Electric vehicle charging</li> <li>IV. Emergency generators, if not used to power regular</li> </ol>

		<p>building operations</p> <p>V. Separately-metered fire pumps</p>
4.05	Direct Data Upload by Utilities	<p>Owners may authorize utilities to upload whole-building energy and water 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.</p>
4.06	If Whole Building Energy and Water Data Are Unavailable	<p>When, despite good-faith efforts to obtain whole-building energy and water use data, such data are still unavailable, buildings may use default energy and water consumption values for designated occupancy uses. These default values may be determined by the City and included in Evanston Benchmarking Guidance materials. Upon determining that they are no longer necessary, the City may disallow the use of default energy and water use values.</p> <p>Any use of default energy and water values shall be noted in ENERGY STAR Portfolio Manager, according to ENERGY STAR Portfolio Manager Guidance.</p>
4.07	Property Use Details for Specific Space Uses	<p>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.</p>
4.08	If Property Use Details Are Unavailable	<p>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 default property values offered by ENERGY STAR Portfolio Manager. Upon determining that they are no longer necessary, the City may disallow the use of default property use details.</p> <p>Any use of default property use details shall be noted in ENERGY STAR Portfolio Manager, according to ENERGY STAR Portfolio Manager Guidance.</p>

## Rule 5 - Data Verification Requirements

5.01	General	Pursuant to City Code Section 4-22-5(A), 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 Certified Professional. As defined by City Code Section 4-22-3, Certified Professionals means a professional engineer or a registered architect licensed in the State of Illinois, or another trained individual as prescribed by Rule 5.05.
5.02	Recognition of Certified Professionals	In addition to professional engineers or registered architects licensed in the State of Illinois, the City may also recognize as Certified Professionals individual credential holders and successful graduates of training programs that have been evaluated and recognized by the City. Certified Professionals, as identified by the City of Evanston, may or may not be recognized by other organizations for other data verification or building certification purposes.
5.03	Criteria for Certified Professional Training Programs and Credentials	<p>Certified Professional training programs and other credentials may be evaluated by the City according to the following criteria:</p> <ol style="list-style-type: none"> <li>I. Demonstrates trained individuals' proficiency in building energy and water benchmarking and familiarity with ENERGY STAR Portfolio Manager;</li> <li>II. Demonstrates trained individuals' working knowledge of energy- and water-efficient building operations, measures and technology;</li> <li>III. Provides opportunities for ongoing skill maintenance and/or re-training as technologies, tools, and practices evolve;</li> <li>IV. Provides a means of tracking graduates or credentialed individuals by name and with a unique identifier (such as a license, identification, or credentialed number); and</li> <li>V. Makes training materials and records available for review by the City and is found to be in compliance with the preceding criteria.</li> </ol>
5.04	Review and Recognition of Certified Professional Training Programs and Credentials	The City may review requests for consideration of Certified Professional training programs and credentials. Training programs and credentials that the City finds to meet the criteria specified in Rule 5.03 shall be recognized by the City of Evanston. Successful graduates of recognized training programs and holders of recognized credentials shall be eligible to conduct data verification.
5.05	Recognized Training Programs and Credentials	<p>The City shall publish a list of recognized training programs and credentials. Recognition of training programs or credentials may be revoked if the City finds that the training program or credential no longer meets the criteria in Rule 5.03.</p> <p>As of the time of the publishing of these Administrative Rules, the City recognizes the following Certified Professional training</p>

		<p>programs and credentials:</p> <ul style="list-style-type: none"> <li>I. State of Illinois: Professional Engineer</li> <li>II. State of Illinois: Architect</li> <li>III. Midwest Energy Efficiency Alliance: Building Operator Certification (BOC)</li> <li>IV. ASHRAE: Building Energy Assessment Professional (BEAP)</li> <li>V. Association of Energy Engineers: Certified Energy Manager (CEM) Certification</li> </ul> <p>Additional programs and credentials may be recognized by the City and made public on the City of Evanston Benchmarking Website.</p>
5.06	Recognition of Data Verification Resulting in ENERGY STAR Building Certification	<p>The City will also recognize as fulfilling the data verification requirement Owners of Covered Buildings that achieve ENERGY STAR building certification through the US Environmental Protection Agency, provided that the certified property and energy and water use data include at least six consecutive months of the calendar year for which data verification was required by the Ordinance.</p> <p>For example, a Covered Building that is required by the Ordinance to verify calendar year 2016 data by June 30, 2017 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 2016.</p>
5.07	Proof of Data Verification	<p>Proof of Data Verification shall take the form of the ENERGY STAR Portfolio Manager Data Verification Checklist, an official record of the ENERGY STAR Certification from the US Environmental Protection Agency, or any successor reports specified by the City, according to Evanston Benchmarking Guidance. ENERGY STAR Portfolio Manager Data Verification Checklists must be completed and signed by the Certified Professional who conducted the Data Verification for each Covered Building.</p> <p>A Certified 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 a license or certificate numbers), as well as the date on which Data Verification took place.</p> <p>Pursuant to City Code Section 4-22-6(A), the Owner of a Covered Building must produce the signed Data Verification Checklist for the most recent year in which verification of Reported Benchmarking Information was required, upon written request by the City.</p>
5.08	Indication That Data Verification Has Been Conducted	<p>For years in which data verification is required by the Ordinance, Owners of Covered Buildings must 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 a license or certificate numbers), as well as the</p>

		date on which Data Verification took place.
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## Rule 6 - Reporting Requirements

6.01	Reporting Process	<p>Each year, the Owner of each Covered Building shall share a subset of the information contained in the building’s ENERGY STAR Portfolio Manager profile, pursuant to City Code Section 4-22-4(A).</p> <p>Unless otherwise directed by the City, Reported Benchmarking Information must be reported through the Evanston Benchmarking Custom Reporting Template interface in ENERGY STAR Portfolio Manager, according to ENERGY STAR Portfolio Manager Guidance and Evanston Benchmarking Guidance.</p> <p>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 instructions will also be available in ENERGY STAR Portfolio Manager Guidance and Evanston Benchmarking Guidance materials.</p>
6.02	Demonstrating Compliance with Data Verification Requirements	<p>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 Evanston Benchmarking Guidance</p>
6.03	Proof of Reporting	<p>Upon submitting Reported Benchmarking Information through the Evanston Benchmarking Custom Reporting Template, Owners will receive a confirmation email from the US Environmental Protection Agency, which shall serve proof-of-submission.</p>
6.04	Public Disclosure of Individual Building Information	<p>City Code Section 4-22-4(C) allows for public disclosure of Reported Benchmarking Information. The City may choose to make specific reported benchmarking information available to the public through the City of Evanston Benchmarking Website, Evanston Open Data Portal or other communication channels.</p> <p>Pursuant to City Code Section 4-22-4(C), 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 will be made public.</p>
6.05	Obligation to Correct Inaccurate Data	<p>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 thirty (30) days of learning of the inaccuracy.</p>

<b>Rule 7 - Retention of Records Requirements</b>		
7.01	Retention of Energy and Water Records	<p>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 after the year by which benchmarking of that data was required.</p> <p>Benchmarking documentation shall include:</p> <ol style="list-style-type: none"> <li>I. Completed Data Verification Checklist, signed by a Certified 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;</li> <li>II. Confirmation email from the US Environmental Protection Agency containing proof-of-submission;</li> <li>III. Back-up information on energy and water use inputs, including, but not limited to energy and water bills, calculations and correspondence demonstrating good-faith efforts to obtain actual energy and water data, property use details, and other data request by ENERGY STAR Portfolio Manager; and</li> <li>IV. A copy of energy and water data entered in ENERGY STAR Portfolio Manager.</li> </ol>
<b>Rule 8 - Exemptions and Exceptions</b>		
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 referenced in Rule 1.12.
8.02	Exemptions from Benchmarking Requirements	City Code Section 4-22-5(B) describes specific exemptions from the benchmarking requirement, based on financial distress, low occupancy and new construction.
8.03	Exceptions to Data Verification Requirements	City Code Section 4-22-6(B), describes specific exceptions to the Data Verification requirement, based on undue financial hardship.
8.04	Exceptions to Public Disclosure	City Code Section 4-22-3 describes specific exceptions to public disclosure, based on occupancy use.
<b>Rule 9 - Enforcement</b>		
9.01	Determination of Compliance	The City is authorized to determine whether any or all persons subject to the Ordinance have complied with the requirements as set forth in City Code Section 4-22-8.
9.02	Request for Compliance	If the requirements have not been met, the City may issue a request for compliance in the form of a Notice to Correct, giving any and all persons subject to the Ordinance thirty (30) days to come into compliance.
9.03	Violations	After thirty (30) days, if any and all persons subject to the Ordinance fail to comply with the reporting requirements, the City may issue a Notice of Violation, pursuant to City Code Section 4-22-9.

# Appendix I – List and Description of Non-Covered Building Occupancy

- I. *Assembly Group A-5*: Assembly uses intended for participation in or viewing outdoor activities including, but not limited to:
  1. Amusement park structures
  2. Bleachers
  3. Grandstands
  4. Stadiums (3-8)
- II. *Factory Industrial Group F*: Factory Industrial Group F occupancy includes, among others, the use of a building or structure, or a portion thereof, for assembling, disassembling, fabricating, finishing, manufacturing, packaging, repair or processing operations that are not classified as a Group H hazardous or Group S storage occupancy (3-10).
- III. *High-Hazard Group H*: High-Hazard Group H occupancy includes, among others, the use of a building or structure, or a portion thereof, that involves the manufacturing, processing, generation or storage of materials that constitute a physical or health hazard...(3-12).
- IV. *Storage Group S*: Storage Group S occupancy includes, among others, the use of a building or structure, or a portion thereof, for storage that is not classified as a hazardous occupancy (3-37).
  1. Hazardous materials may be located in Group S occupancy buildings, provided the amount of materials in each control area does not exceed the MAQ specified in Tables 307.1(1) and 307.1(2) (3-38).
- V. *Utility and Miscellaneous Group U*: Group U shall include, but are not limited to, the following:
  1. Agricultural buildings
  2. Aircraft hangars, accessory to a one- or two-family residence (see section 412.5)
  3. Barns
  4. Carports
  5. Fences more than 6 feet (1829 mm) in height
  6. Grain silos, accessory to a residential occupancy
  7. Greenhouses
  8. Livestock shelters
  9. Private garages
  10. Retaining walls
  11. Sheds
  12. Stables
  13. Tanks
  14. Towers (3-40).

# Appendix II – Ordinance

## CHAPTER 22 – BUILDING ENERGY AND WATER USE BENCHMARKING ORDINANCE

### 4-22-1: SHORT TITLE.

This Chapter is titled and may be cited as the “Building Energy and Water Use Benchmarking 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 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:

<i>BENCHMARK.</i>	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.
<i>BENCHMARKING TOOL.</i>	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.
<i>CERTIFICATE OF OCCUPANCY.</i>	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.
<i>CERTIFIED PROFESSIONAL.</i>	A professional engineer or a registered architect licensed in the State of Illinois, or another trained individual acceptable to the City Manager or his/her designee.
<i>CITY BUILDING.</i>	Any municipally owned building or group of buildings that have the same property identification or index number (PIN), having a gross floor area of 10,000 square feet or more, as identified by the City Manager or his/her designee.
<i>COVERED BUILDING.</i>	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.
<i>ENERGY PERFORMANCE SCORE.</i>	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 total energy use, operating characteristics, and geographical location.
<i>ENERGY USE INTENSITY (“EUI”).</i>	The total annual energy consumed by a building per gross square foot.
<i>GROSS FLOOR AREA.</i>	"Gross Floor Area" as defined in the United States Environmental Protection Agency’s ENERGY STAR Portfolio Manager, as amended.
<i>OWNER.</i>	"Owner" has the meaning ascribed to the term in City Code Section 6-18-3.
<i>REPORTED BENCHMARKING INFORMATION.</i>	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.
<i>TYPE 1 COVERED BUILDING.</i>	Any building or group of buildings that have the same property identification or index number (PIN), having a gross floor area of 100,000 square feet or more, as identified by the City Manager or his/her designee.
<i>TYPE 2 COVERED BUILDING.</i>	Any building or group of buildings that have the same property identification or index number (PIN), having a gross floor area of 50,000 square feet or more but less than 100,000 square feet, as identified by the City Manager or his/her designee.
<i>TYPE 3 COVERED BUILDING.</i>	Any building or group of buildings that have the same property identification or index number (PIN), having a gross floor area of 20,000 square feet or more but less than 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.

**4-22-4: BUILDING PERFORMANCE DISCLOSURE.**

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

- (B) The City Manager or his/her 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, including, but not limited to, summary statistics on the most recent reported energy and water benchmarking information.
- (C) The City Manager or his/her 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 designee will 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.

**4-22-5: BENCHMARKING REQUIREMENTS.**

- (A) The owner of any covered building 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:
  - 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) **Retention of Records.** Each owner is responsible for retaining the previous three (3) years' worth of benchmarking data, where applicable.

**4-22-6: 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.

**(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: 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 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.

Any owner of a covered building must request such information no later than March 1 of the years in which benchmarking is required by City Code Section 4-22-5. 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 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 does not relieve such owner of the obligation to benchmark the building as provided in City Code Section 4-22-5, 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 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 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 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, using all information otherwise available to the owner.

#### **4-22-8: ENFORCEMENT.**

The City Manager or his/her designee is authorized to enforce this Chapter. The City Manager or his/her designee is also authorized to adopt rules and regulations for the proper administration and enforcement of this Chapter.

#### **4-22-9: NOTICE OF VIOLATION.**

Whenever the City Manager or his/her designee determines that an owner fails to meet any requirement of this Chapter, he/she must give written notice to the owner. Such notice must include,

but not limited to, stating that the owner failed to comply with the requirements of this Chapter 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 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 by the owner.

**4-22-10: HEARINGS.**

If a written request is filed within twenty (20) calendar days, an opportunity for a hearing with the City Manager or his/her designee must be afforded within ten (10) calendar days of receipt of the request. The hearing 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. The City Manager or his/her designee will 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 within ten (10) calendar days after the conclusion of the hearing.

**4-22-11: PENALTY.**

Any person who violates any provision of this Chapter will be fined one hundred dollars (\$100.00) 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.