

**CHAPTER 2023-36**

**No. 446 AN ORDINANCE AMENDING CHAPTER 5 "BUILDINGS AND STRUCTURAL APPURTENANCES" OF THE CODE OF ORDINANCES TO ADD ARTICLE X "BUILDING ENERGY REPORTING PROGRAM**

**Approved November 8, 2023**

*Be it ordained by the City of Providence:*

**SECTION 1.**

Chapter 5 “Buildings and Structural Appurtenances” is hereby amended to add Article X “Building Energy Reporting Program” as follows:

**Article X – Building Energy Reporting Program**

**Sec. 5-126. Purpose and intent.**

The purpose and intent of the Building Energy Reporting Program is to create a data collection process and establish a database to enable municipal tracking of energy use of large buildings in the City of Providence, as well as to:

- (1) To encourage efficient use of energy and to reduce greenhouse gas emissions by requiring annual measurement and disclosure to the City of building energy usage;
- (2) To enable more effective energy and climate mitigation planning by the City, the state, and large building owners;
- (3) To gather data necessary for informing the design and implementation of municipal programs to meet the science-based targets in the statewide Act on Climate legislation.
- (4) To provide the public with information concerning the City’s and others’ energy consumption, improvement in energy efficiency, and reduction of greenhouse gas emissions.

**Sec. 5-127. Definitions.**

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a differing meaning:

*Benchmarking information* shall mean information generated by the Benchmarking Tool as herein defined, including information about the physical property and its operational characteristics. The information shall include, but need not be limited to:

- (1) Property address;
- (2) Primary use type;
- (3) Gross floor area;
- (4) Annual Energy Use;
- (5) Source Energy Use Intensity (EUI); Site EUI, Weather Normalized Source EUI, Weather Normalized Site EUI;
- (6) Annual greenhouse gas emissions;
- (7) Compliance or noncompliance with this Ordinance.

*Benchmarking Tool* shall mean ENERGY STAR Portfolio Manager, the internet-based tool developed and maintained by the U.S. Environmental Protection Agency (U.S. EPA) to track and assess the relative energy performance of buildings nationwide. Should ENERGY STAR Portfolio Manager become unavailable for any reporting year(s), the reporting obligations herein will be suspended until such time it is again available or a comparable alternative is designated by the Department of Sustainability.

*Campus* shall mean two or more buildings that are served by shared utility services and predominantly used for health care, research or higher education purposes.

*Covered property* shall mean all residential and non-residential buildings and Campuses in the City that contain 20,000 or more gross square feet and all municipal buildings and Campuses in the City that contain 10,000 or more gross square feet as defined herein and identified by the Tax Assessors Database.

*Dwelling unit* shall mean a single residential unit consisting of one or more rooms, occupied or arranged to be occupied as a residential unit separate from all other residential units within a building, and used primarily for residential purposes and not primarily for professional or commercial purposes.

*Director* means the Director of the Department of Sustainability or designee.

*Energy* shall mean electricity, natural gas, steam, hot or chilled water, heating oil, or other product for use in a building, or renewable electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities.

*ENERGY STAR* shall mean the U.S. Environmental Protection Agency program related to improving energy efficiency in buildings and products.

*Gross square feet* shall mean the gross floor area of the property as defined by the U.S. EPA Portfolio Manager.

*Municipal property* shall mean a building that contains 10,000 or more gross square feet that is owned by the City of Providence.

*Owner* shall mean:

- (1) An individual or entity designated in the records of the City Tax Assessor as the owner of a Covered Property;
- (2) An agent authorized by law to act on behalf of the owner of a Covered Property;
- (3) In the case of a condominium, the person or persons authorized by law to act on behalf of the condominium association or its board of directors, managers or trustees; and/or
- (4) In the case of a cooperative, the person or persons authorized by law to act on behalf of the cooperative.

*Site Energy* shall mean the annual amount of all the energy each property consumes on-site, regardless of the source. It not only includes energy purchased from a utility or in bulk, but also renewable energy generated and consumed on-site such as from solar or wind (excess renewable energy generated on-site is excluded from site energy use). Site Energy can be used to understand how the energy use for an individual property has changed over time.

*Source Energy* shall mean the total amount of raw fuel that is required to operate your property. Source EUI (Energy Use Intensity) is Source Energy divided by the property's Gross Floor Area. In addition to what the property consumes on-site, source energy includes losses that take place during generation, transmission, and distribution of the energy, thereby enabling a complete assessment of energy consumption resulting from building operations. Source Energy will be used to understand the complete energy impact of each property and compare the energy performance across covered properties in the program.

*Tenant* shall mean a person or entity leasing, occupying or holding over possession of a Covered Property or Municipal Property.

*Utility* shall mean an entity that distributes, supplies, or transmits energy to Covered Properties.

**Sec. 5-128. Establishment.**

There is hereby established a Building Energy Reporting Program for Covered Properties with the purpose of helping the City conserve energy, reduce energy costs for businesses, and meet its goal to be carbon neutral by 2050 by requiring large building owners to benchmark their buildings' energy use and report this data to the City. The City will be responsible for reporting this information to the public in order to provide transparency to the marketplace.

**Sec. 5-129. Benchmarking required for municipal properties.**

No later than May 15, 2024 and by May 15 thereafter, the City, by the Director of the Department of Sustainability or their designee, shall input annual energy use from January 1st through December 31st of the previous calendar year and all other descriptive information required by the Benchmarking Tool, into the Benchmarking Tool for each of its covered properties. Where a Covered Property's Benchmarking Information in the Benchmarking Tool has fallen out of date, said Benchmarking Information shall be updated no later than the annual reporting date.

**Sec. 5-130. Benchmarking required for other covered properties.**

Owners of Covered Properties shall input annual energy use from January 1st through December 31st of the previous calendar year and all other descriptive information required by the Benchmarking Tool, into the Benchmarking Tool, according to the following schedule:

- (1) For buildings that contain 50,000 or more gross square feet, no later than May 15, 2025 and by every May 15 thereafter;
- (2) For buildings that contain 20,000 to 49,999 gross square feet, no later than May 15, 2026 and by every May 15 thereafter;  
 For buildings that contain 10,000 to 19,999 gross square feet, by May 15, 2026;
- (3) Following the receipt of Certificate of Occupancy, a new Covered Property that has not yet accumulated 12 months of energy use data by the first applicable reporting deadline shall comply with this Ordinance in the following year.

**Sec. 5-131. Notification of Covered Properties.**

Between September 15 and December 15 of each year, the City shall notify Owners of Covered Properties of their obligation to input Energy use into the Benchmarking Tool. By January 31 of each year, the City shall post a list of the addresses of Covered Properties. The list shall be published in the Office of the City Clerk and on the Department of Sustainability's City webpage.

**Sec. 5-132. Exemptions.**

An owner of an otherwise "Covered Property" may seek an exemption from the requirements of this Ordinance for a reporting year if any of the following conditions apply:

- (1) None of the property was occupied for the entire calendar year required to be benchmarked;
- (2) A demolition permit for the entire property was issued and demolition work commenced during the calendar year;
- (3) The property did not receive energy services for the entire calendar year required to be benchmarked

- (4) The property was a Residential Property with 15 or fewer Dwelling Units; and

If the building owner has substantial and documented difficulty accessing data from tenants and/or the relevant utility.

Applications for exceptions can be filed with the Director of the Department of Sustainability, using a form created by the Department, and with all relevant supporting documentation included and notarized prior to submission. Waivers will be granted or denied at the discretion of the Director of the Department of Sustainability.

**Sec. 5-133. Provision and publication of benchmarking information.**

Owners shall annually provide Benchmarking Information to the Director, in such form as established by the Director, by the date provided by the schedule in Sec. 5-130 above.

No later than October 15, 2024 and thereafter by October 15 of each year, the Director shall deliver a summary report on the program to the Administration and City Council and then publish said report on the Department of Sustainability's webpage. The report shall include, but not be limited to:

- (1) Benchmarking Information for each Covered Property, as described in Sec. 5-127, Definitions, above, for the current year;
- (2) Progress against baseline year data from intervening years for both energy use and GHG emissions.
- (3) Covered Properties' compliance status with the Energy Assessment or Actions Requirements described in Sec. 5-135 below.

**Sec. 5-134. Direct upload.**

Owners of Covered Properties may authorize an energy utility or other third party to report building-specific energy data on their behalf to the Director. Such authorization shall not remove the obligation of property owners to comply with reporting requirements.

**Sec. 5-135. Energy assessments or actions.**

The Director shall establish requirements for energy assessment or actions, in the manner set forth below. Each Covered Property not exempted by the Director shall complete either an energy assessment or action, described below, within five (5) years of its first energy reporting deadline and within every five (5)-year period thereafter. The owner may elect whether to complete an assessment or an action.

**Sec. 5-136. Energy assessment or action requirements.**

(1) In establishing requirements for energy assessments, the Director shall look to the most recent edition of Procedures for Commercial Building Energy Audits published by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) for guidance, and may vary these requirements based on building size, age, energy performance, and other building characteristics as well as incentives in utility-administered or other energy efficiency programs and changes in energy assessment technology.

(2) Energy actions may include investments in energy conservation measures, development of comprehensive energy management plans, retro commissioning of energy systems, or similar actions.

(3) Summary results of energy assessments and actions shall be reported to the Director in such form as the Director shall specify.

**Sec. 5-137. Maintenance of records.**

Owners shall maintain and make available upon request the following records for a period of five (5) years:

- (1) The U.S. EPA Portfolio Manager Confirmation email evidencing the date the Owner submitted its report;
- (2) Such other records as the Director determines is necessary for carrying out the purposes of this Ordinance, as reflected in the Director's regulations.
- (3) Sellers of Covered Property will provide purchasers all information necessary for the purchaser to report Benchmarking Information in a timely manner.

**Sec. 5-138. Violations and Enforcement.**

Any person or entity that violates any provision of this Ordinance shall be subject to the following civil remedies:

- (1) For the first violation, the City may issue a written warning to the building owner.
- (2) For a second or subsequent violation, the City may impose civil fines as follows for each building not reported:
  - (a) For Buildings that contain 50,000 or more gross square feet, \$40.00 per day to a maximum of \$4,000.00 per year;
  - (b) For Buildings that contain 20,000 or more gross square feet, \$30.00 per day to a maximum of \$3,000.00 per year;
- (3) Upon request by the Director, the Office of Sustainability shall issue notices of violation in accordance with this section. The Director shall identify the department responsible for conducting enforcement.
- (4) Any person who makes a misrepresentation of a material fact in any document or filing governed by this Ordinance shall be subject to any and all other remedies available at law.
- (5) In addition to any remedies provided above, the City may, by and through the Solicitor, seek injunctive relief in a court of competent jurisdiction.
- (6) This subsection shall not be amended unless a public hearing is convened by a committee of the Council.

**Sec. 5-139. Severability.**

If any provision of this Ordinance shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

**SECTION 2.** This Ordinance shall take effect upon passage.

IN CITY COUNCIL  
OCT 19 2023  
FIRST READING  
READ AND PASSED

*Dina L. Mastromanni*  
CLERK

IN CITY COUNCIL  
NOV 02 2023  
FINAL READING  
READ AND PASSED

*Franklin D. Richards*  
ACTING PRESIDENT  
*Dina L. Mastromanni*  
CLERK

I HEREBY APPROVE.

*Brad P. Smith*  
Mayor

Date: 11/8/2023