

ORDINANCE NO. 2019-10

**AN ORDINANCE AMENDING CHAPTER 20 OF THE EDINA CITY CODE
CONCERNING LARGE BUILDING BENCHMARKING**

THE CITY OF EDINA ORDAINS:

Section 1. Chapter 20 of the Edina City Code is amended by adding Article XI to provide as follows:

ARTICLE XI EFFICIENT BUILDING BENCHMARKING

20-625 Definitions. The following words shall have the meaning ascribed to them, unless the context clearly indicates a different meaning:

Benchmark means to input the total energy consumed for a building and other descriptive information for such building as required by the benchmarking tool.

Benchmarking information means information related to a building's energy consumption as generated by the benchmarking tool, and descriptive information about the physical building and its operational characteristics. The information shall include, but need not be limited to:

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

Benchmarking tool means the United States Environmental Protection Agency's Energy Star Portfolio Manager Tool or an equivalent tool adopted by the Director.

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

City-owned building means any building, or group of buildings on the same tax lot, owned by the City of Edina containing twenty-five thousand (25,000) or more gross square feet of an occupancy use other than industrial.

Covered property means any property of occupancy uses other than industrial that has one or more buildings containing in sum the gross square feet shall be classified in the following classes:

<u>Class</u>	<u>Property Size (in square feet)</u>
<u>1</u>	<u>100,000 and greater</u>
<u>2</u>	<u>50,000-99,999</u>
<u>3</u>	<u>25,000 - 49,999</u>

The term "covered property" shall not include any building owned by the county, state, or federal government or other recognized political subdivision as there is no jurisdiction over these buildings.

Director means the individual appointed by the City Manager.

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

Energy-saving assessment means a systematic process of identifying and developing modifications and improvements of the base building systems, including but not limited to alterations of such systems and the installation of new equipment, insulation or other generally recognized energy and water efficiency technologies to optimize energy and water use performance of the building and achieve energy and water savings, provided that such process shall be at least as stringent as or comparable to the Level I Energy Survey and Engineering Analysis of the most recent edition of Procedures for Commercial Building Energy Audits published by the American Society of Heating, Refrigerating and Air-conditioning Engineers Inc. (ASHRAE) or as otherwise determined by the Director and such process for water systems shall be as determined by the Director.

Energy performance score means the numeric rating generated by the Energy Star Portfolio Manager tool or equivalent tool adopted by the Director that compares the energy usage of the building to that of similar buildings.

Energy Star Portfolio Manager means the tool developed and maintained by the United States Environmental Protection Agency to track and assess the relative energy performance of buildings nationwide.

Industrial means manufacturing, compounding, processing, packaging, treatment and assembly of products and materials.

Tenant means a person or entity occupying or holding possession of a building or premises pursuant to a rental agreement.

Utility means an entity that distributes and sells natural gas, electric, or thermal energy services for buildings.

20-626 Benchmarking required for city-owned properties. No later than August first, 2019, and no later than every June first thereafter, each city-owned building shall be benchmarked for the previous calendar year.

20-627 Benchmarking required for covered properties. Property owners shall annually benchmark for the previous calendar year each covered property and obtain an energy performance score as available according to the following schedule:

- a. All Class 1 and Class 2 covered properties by June first, 2020 and by every June first thereafter;
- b. All Class 3 covered properties by June first, 2021 and by every June first thereafter;

20-628 Disclosure and publication of benchmarking information. The property owner shall annually provide benchmarking information to the Director, in such form as established by the Director's rule, by the date provided by the schedule in subsections 20-627.

20-629 The Director shall make readily available to the public, and update annually, benchmarking information for the previous calendar year according to the following schedule:

- a. Each city-owned property by August 30, 2020 and by every August 30th thereafter;
- b. Each Class 1 and Class 2 covered property by August 30, 2021 and by every August 30th thereafter;
- c. Each Class 3 covered property by August 30, 2022 and by every August 30th thereafter;

20-630 The Director shall make available to the public, and update at least annually, the following information about city-owned properties and covered properties:

- a. Summary statistics on energy consumption derived from aggregation of benchmarking information for properties;
- b. Summary statistics on overall compliance with this section;
- c. For each property:
 1. The status of compliance with the requirements of this chapter;

2. Annual summary statistics for the property, including energy use intensity, annual greenhouse gas emissions, and an energy performance score where available;

20-631 Energy assessment requirement. Covered properties with energy and water efficiency improvement potential shall submit proof of an energy assessment having been performed according to the schedule (1) below. The assessment must have been performed within the last five (5) years and must include recommendations for energy and water savings opportunities. Qualifying proof that an evaluation has been performed shall be established by rules set at discretion by the Director. The Director shall also establish energy standards in the rules that define buildings requiring an assessment. Properties shall submit proof of energy assessment according to the following schedule:

- a. All Class 1 covered properties by June first, 2022 and by June first every fifth year thereafter;
- b. All Class 2 covered properties by June first, 2023 and by June first every fifth year thereafter;
- c. All Class 3 covered properties by June first, 2024 and by June first every fifth year thereafter;

20-633 Exemptions. The Director may exempt a property owner from the benchmarking and energy assessment requirements of subsection (c) if the property owner submits documentation establishing any of the following:

- a. The property is presently experiencing qualifying financial distress in that the property is the subject of a qualified tax lien sale or public auction due to property tax arrearages, the property is controlled by a court-appointed receiver based on financial distress, the property is owned by a financial institution through default by the borrower, the property has been acquired by a deed in lieu of foreclosure, or the property has a senior mortgage which is subject to a notice of default; or
- b. The property or areas of the property subject to the requirements of this section have been less than fifty (50) percent occupied during the calendar year for which benchmarking is required; or
- c. The property does not have a certificate of occupancy or temporary certificate of occupancy for all twelve (12) months of the calendar year for benchmarking is required.

20-634 Where aggregate data is not available, tenants located in a covered property subject to this chapter shall, within thirty (30) days of a request by the property owner and in a form to be

approved by the Director, provide all information that cannot otherwise be acquired by the property owner and that is needed by the property owner to comply with the requirements of this section.

20-634 Violations. It shall be unlawful for any entity or person to fail to comply with the requirements of this section or to misrepresent any material fact in a document required to be prepared or disclosed by this section.

20-635 Enforcement. The Director shall enforce the provisions of this section. If it is determined that a property owner or any person subject to the provisions of this section fails to meet any requirement of this section, the Director shall mail a warning notice to the property owner or person. The notice shall specify the reasons why the property owner or person fails to meet the requirements set forth in this section. The notice shall indicate that the person has forty-five (45) business days to comply with the applicable requirement. If any property owner or person who fails, omits, neglects, or refuses to comply with the provisions of this section after the period of compliance provided for in the required warning notice the City shall have cause for the denial, suspension, revocation or refusal to issue any applicable business license held by the property owner or person. This section may also be enforced by injunction, abatement, mandamus, or any other appropriate remedy in any court of competent jurisdiction.

Section 2. This ordinance is effective immediately upon its passage and publication.

First Reading:

Second Reading:

Published:

ATTEST:

Sharon Allison, City Clerk

James B. Hovland, Mayor

Please publish in the Edina Sun Current on:

Send two affidavits of publication

Bill to Edina City Clerk

CERTIFICATE OF CITY CLERK

I, the undersigned duly appointed and acting City Clerk for the City of Edina, do hereby certify that the attached and foregoing Ordinance was duly adopted by the Edina City Council at its Regular Meeting of _____, 2019, and as recorded in the Minutes of said Regular Meeting.

WITNESS my hand and seal of said City this _____ day of _____, 2019.

City Clerk