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City of Cambridge

In the Year Two Thousand and Twenty-Three

AN ORDINANCE

In amendment to the Ordinance entitled “Building Energy Use,” Chapter 8.67 of the Municipal Code of the City of Cambridge

Be it ordained by the City Council of the City of Cambridge that the Municipal Ordinances of the City of Cambridge in be amended as follows:

Building Energy Use Disclosure and Emission Reductions

8.67.010 DEFINITIONS

- (1) “Affordable Housing” shall mean Residential Covered Property in which all units are made permanently affordable to households earning up to 100% of area median income.
- (2) “Alternative Compliance Credit” shall mean a credit obtained by a Covered Property Owner to offset greenhouse gas emissions from the Covered Property. One Alternative Compliance Credit shall be equivalent to one metric ton of Greenhouse Gas Emissions. In the first Compliance Period, each Alternative Compliance Credit shall cost \$234. The Assistant City Manager for Community Development shall promulgate regulations pursuant to 8.67.130 prior to each Compliance Period to establish the price of the Alternative Compliance Credit for that Compliance Period, based on review of the average cost of reducing one metric ton of greenhouse gas emissions in Covered Properties. Monies from Alternative Compliance Credits shall be used by the City solely for City programs and projects that directly reduce carbon emissions, including but not limited to, greenhouse gas reduction projects in Affordable Housing properties, if approved by the Cambridge Affordable Housing Trust.
- (3) “Approved Verification Body” shall mean a n organization-firm accredited by the American National Standards Institute to conduct greenhouse gas inventory verification services.
- (4) “Baseline” shall mean the average of Greenhouse Gas Emissions of Covered Properties for two consecutive calendar years comprising the default baseline, alternative baseline, or new covered properties baseline as set forth in section 8.67.100 for purposes of calculating emissions reduction targets in order to meet the requirements of this ordinance set forth in section 8.67.100.
- (5) “Benchmarking Information” shall mean information input and/or generated by the Benchmarking Tool, as herein defined including descriptive information about the physical property and its

operational characteristics. The information shall include, but need not be limited to:

- (a) Property address;
 - (b) Primary use type;
 - (c) Gross floor area;
 - (d) Site Energy Use Intensity (EUI) as defined in this section;
 - (e) Weather normalized Source EUI;
 - (f) Annual greenhouse gas emissions;
 - (g) Water use; and
 - (h) The energy performance score that compares the energy use of the building to that of similar buildings, where available.
- (6) “Benchmarking Tool” shall mean the ENERGY STAR Portfolio Manager tool developed and maintained by the U.S. Environmental Protection Agency to track and assess the relative energy performance of buildings nationwide, and/or other tools identified by the Department to collect and track Benchmarking Information necessary for compliance with this ordinance.
- (7) “Campus” shall mean a minimum of 5 (five) Covered Properties owned by the same Owner, or any number of Affordable Housing properties owned by the same Owner.
- (8) “Compliance Period” is a defined set of years, in each year of which Covered Properties must achieve the performance requirements of 8.67.100. Compliance Period 1 is the years 2026 through 2029. Compliance Period 2 is the years 2030 through 2034. Compliance Period 3 is the years 2035 through 2039. Compliance Period 4 is the years 2040 through 2044. Compliance Period 5 is the years 2045 through 2049. Compliance Period 6 is the years 2050 and onwards.
- (9) “Condominium” shall mean a residential or non-residential condominium property established pursuant to G.L. c 183A, as may be identified by the City of Cambridge Assessor’s Records.
- (10) “Cooperative” shall mean a multi-dwelling complex in which owners acquire an interest in the entire complex and a proprietary lease to their own apartment or dwelling, which complex is formed or held pursuant to Chapters 156C, 156D, 157, 157B, or 180 or similar provision in the Massachusetts General Laws.
- (11) “Covered Property” shall mean a parcel, as described in public records or as determined by the Department, containing any of the following:
 - (a) One or more non-residential building(s) where such building(s) singly or together contain 25,000 or more Covered Square Feet
 - (b) One or more residential building(s) that singly or together contain 50 or more residential Dwelling Units
- (12) “Covered Square Feet” shall mean the living area of the property as per the City of Cambridge Assessors’ records.

- (13) “Department” shall mean the City of Cambridge Community Development Department.
- (14) “Dwelling Unit” shall mean a single residential unit, as defined by the Cambridge Zoning Ordinance, consisting of one or more habitable 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.
- (15) “Emission Factors” shall mean the multipliers used to determine the ~~annual~~ Greenhouse Gas Emissions produced by the production or consumption of Energy. The Assistant City Manager for Community Development shall promulgate regulations pursuant to 8.67.130 no later than the year prior to each Compliance Period to establish the ~~annual~~ Emission Factors for that Compliance Period, and no later than one year prior to the first Compliance Period to establish the ~~annual~~ Emission Factors for 2010-2025.
- (a) For the combustion of fuels, such as oil and gas, the Emission Factors will be based on standard scientific values published by federal agencies.
 - (b) For the use of all electricity purchased from the grid other than Renewable Electricity, the ~~annual~~ Emission Factor~~s~~ will generally reflect the emissions intensity of electricity consumed in Massachusetts.
 - (c) For the generation of steam, hot water, and chilled water, and the generation of electricity other than Renewable Electricity, the Emission Factor~~s~~ for each output from the generation facility will be calculated using the Greenhouse Gas Protocol methodology jointly developed by the World Resources Institute and World Business Council for Sustainable Development, or similar methodology, using data provided by the generation facility owner.
- (16) “Energy” shall mean purchased electricity, natural gas, steam, hot or chilled water, heating oil, or other product or electricity generated on site, for use in a building for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities, excluding any verified amount of electricity used for charging electric vehicles and excluding any Energy exported for consumption outside the Covered Property.
- (17) “ENERGY STAR Portfolio Manager” shall mean the tool developed and maintained by the U.S. Environmental Protection Agency to track and assess the relative energy performance of buildings nationwide.
- (18) “Energy Use Intensity (EUI)” shall mean a building’s annual energy consumption measured in kBtUs (1,000 British Thermal Units) used per square foot of gross floor area.
- (19) “Greenhouse Gas Emissions” (GHG) shall mean the carbon dioxide equivalent emissions produced from the operations of the Covered Property calculated by the Department according to the following calculation:

Greenhouse Gas Emissions are the sum of annual Energy use by fuel type multiplied by the

Emission Factor for that type of Energy, minus Alternative Compliance Credits, minus Verified Carbon Credits; provided that Renewable Electricity shall be subtracted from the electricity consumption, up to a limit of the total electricity consumption or the limit determined in 8.67.100(7).

- (20) "Hardship Compliance Plan" shall mean a detailed compliance plan to reduce Greenhouse Gas Emissions, based on an energy audit or similar assessment, that a Covered Property Owner may propose for approval by the Review Board to address hardship at a Covered Property. Such hardship may include, but not be limited to, financial distress, ownership structure consisting of individual non-residential Condominiums, limitations in securing sufficient grid electrical service when it is needed, and limitations due to historic designation or other regulatory designation of the Covered Property that hinders it from compliance with 8.67.100. The Assistant City Manager for Community Development shall promulgate regulations pursuant to 8.67.130 that establish [the documentation required for application, the](#) minimum requirements for the emissions reductions achieved by Hardship Compliance Plans, and the length of time for which they may be approved.
- (21) "Municipal Property" shall mean a property with one or more buildings that is 10,000 gross square feet or more that is owned by the City of Cambridge.
- (22) "New Covered Property" shall mean a Covered Property that has received its Certificate of Occupancy in 2018 or later or has completed a substantial rehabilitation of the property in 2018 or later. New Covered Properties shall comply with the performance requirements in 8.67.100(3).
- (23) "Owner" shall mean an owner of a Covered Property, including but not limited to:
- (a) An individual or entity having title to a Covered Property;
 - (b) An agent authorized to act on behalf of the owner of a Covered Property;
 - (c) The net lessee in the case of a Covered Property subject to a net lease with a term of at least forty-nine years, inclusive of all renewal options;
 - (d) The board of managers or trustees in the case of a condominium at the Covered Property; and/or
 - (e) The board of directors or trustees in the case of a cooperative apartment corporation at the Covered Property.
- (24) "Qualified Benchmark" is an entity that meets the Department's qualifications for inputting Benchmarking Information into the Benchmarking Tool.
- (25) "Renewable Electricity" shall mean purchases from specific off-site renewable electricity programs approved by the Department, or the renewable energy attributes, measured in megawatt-hours, retired from renewable on-site electricity generation or from off-site zero greenhouse gas emission electricity sources qualified by the Department based on the following Cambridge Off-Site Renewable Electricity Standards:
- (a) The off-site renewable energy procurement shall support a renewable energy project that is new, meaning that the Covered Property Owner enters into a contract

to purchase Renewable Electricity from a newly built renewable energy generating source that is not operational at the time of contract execution. This includes contracts that lead to construction of a new project, as well as contracts that lead to expansion of existing projects with new renewable capacity.

- (b) Renewable Energy Certificates (RECs) and other environmental attributes associated with the procured off-site renewable energy shall be assigned to the Covered Property or Campus in Cambridge for the duration of the contract and made available for inspection by the City of Cambridge upon request. The Owner shall maintain transparent accounting that clearly assigns renewable energy production in the form of RECs in megawatt-hours to the Covered Property or Campus in Cambridge for the duration of the procured off-site renewable energy contract.
- (c) The renewable energy generating source shall be photovoltaic systems, solar thermal power plants, wind turbines, geothermal power plants, small hydropower, or other renewable energy generating sources that may be submitted to and certified by the Department.

- (26) “Residential Property” shall mean a property containing one or more Dwelling Units, and whose use is primarily (greater than 75% of the Covered Square Feet) residential.
- (27) “Site Energy” shall mean the amount of energy consumed by a Covered Property or Municipal Property as reflected in utility bills or other documentation of actual energy use.
- (28) “Source Energy” shall mean all the energy used in delivering energy to a Covered Property, including power generation and transmission and distribution losses.
- (29) “Tenant” shall mean a person or entity leasing, occupying or holding possession of all or a portion of a Covered Property or Municipal Property.
- (30) “Utility” shall mean an entity that distributes and sells Energy for Covered Properties or Municipal Properties.
- (31) “Verified Carbon Credit” shall mean a verified reduction of one metric ton of carbon dioxide equivalent emissions, obtained by a Covered Property Owner to offset Greenhouse Gas Emissions from the Covered Property. The Assistant City Manager for Community Development shall promulgate regulations pursuant to 8.67.130 no later than December 31, 2028 to establish minimum criteria for Verified Carbon Credits, including specifications to address the permanence, additionality, verifiability, enforceability, real impact, immediacy, environmental justice, and other qualities of the obtained reductions in emissions. Pursuant to these regulations, the Review Board shall ~~determine~~approve the types and geographic limits of emissions reduction projects from which a Covered Property Owner may obtain new Verified Carbon Credits, such that the Verified Carbon Credits be local when possible. At minimum, the Review Board shall make such determinations no later than one year prior to the beginning of Compliance Periods 2, 3, 4, and 5.

8.67.020 Purpose

To encourage efficient use of energy and to reduce the emission of greenhouse gases, this Ordinance requires owners of Covered Properties and Municipal Properties to annually measure and disclose energy usage to the Department and to achieve Greenhouse Gas Emissions reduction targets consistent with the commitments of the 2015 Cambridge Net Zero Action Plan as it may be amended from time to time. Furthermore, this Ordinance will authorize the Department to collect energy usage data to enable more effective energy and climate protection planning by the City and others and to provide information to the real estate marketplace to enable its members to make decisions that foster better energy performance. The performance requirements of 8.67.100 will reduce emissions from all Covered Properties, achieving net zero emissions from the largest non-residential properties by 2035 and all Covered Properties by 2050, in line with the commitments of the Net Zero Action Plan.

8.67.030 APPLICABILITY

- (1) This Ordinance is applicable to the following:
 - (a) All Municipal Properties as defined in Section 8.67.010(21) of this Ordinance; and
 - (b) All Covered Properties as defined in Section 8.67.010(11) of this Ordinance.

8.67.040 BENCHMARKING REQUIRED FOR MUNICIPAL PROPERTIES

No later than December 31, 2014, and no later than May 1 every year thereafter, the total Energy consumed by each Municipal Property, along with all other descriptive information required by the Benchmarking Tool, shall be entered into the Benchmarking Tool for the previous calendar year. Renewable Electricity purchases shall be annually reported to the Department on the same schedule.

8.67.050 BENCHMARKING REQUIRED FOR COVERED PROPERTIES

- (1) Owners shall annually input the total Energy consumed by each Covered Property, along with all other descriptive information required by the Benchmarking Tool, into the Benchmarking Tool for the previous calendar year. Renewable Electricity purchases shall be annually reported to the Department. The Owner shall input this information according to the following schedule:
 - (a) A Non-residential Covered Property by May 1, 2015 and by every May 1 thereafter;
 - (b) A Residential Covered Property by May 1, 2015 and by every May 1 thereafter; and
 - (c) A New Covered Property by May 1 of the year following the first full calendar year following the issuance of the Certificate of Occupancy.
- (2) Provided that the necessary mechanisms exist, Owners may authorize an Energy or water utility or other third party to report Covered Property-specific data on their behalf to the Department. Such

authorization shall not create an obligation on the part of energy or water utilities or remove the obligation of Owners to comply with reporting requirements.

8.67.060 NOTIFICATION OF COVERED PROPERTIES

By December 31 of each year, the City shall notify Owners of Covered Properties of their obligation to input Energy use into the Benchmarking Tool. By February 15 of each year, the City shall post the list of the addresses of Covered Properties on a public website. Greenhouse Gas Emissions shall be calculated by the Department and reported annually to Owners along with the performance requirements of Section 8.67.100.

8.67.070 QUALIFICATIONS OF BENCHMARKERS

The Department may establish certification and/or licensing requirements for the users of Benchmarking Tools.

8.67.080 DISCLOSURE AND PUBLICATION OF BENCHMARKING INFORMATION

- (1) Owners shall annually provide Benchmarking Information to the Department, in such form as established by the Department, by the date provided by the schedule in Section 8.67.050(1).
- (2) The Department shall make available to the public on the internet Benchmarking Information for the previous calendar year: a) no later than December 31, 2014 and by December 31 of each year thereafter for Municipal Properties; and b) no later than September 1, 2015 and by December 31 of each year thereafter for Covered Properties.
- (3) The Department shall make available to the public and update at least annually, the following information:
 - (a) Summary statistics on energy consumption and greenhouse gas emissions for Municipal Properties and Covered Properties derived from aggregation of Benchmarking information for both;
 - (b) Summary statistics on overall compliance with this Ordinance; and
 - (c) For each Municipal Property and Covered Property:
 - (i) The status of compliance with the requirements of this Ordinance;
 - (ii) Annual summary statistics for the Municipal Property or Covered Property, including EUI, annual Greenhouse Gas Emissions, water use per square foot, an energy performance score where available; and
 - (iii) A comparison of Benchmarking Information and Greenhouse Gas Emissions across calendar years for any years such Municipal Property or Covered Property has input the total Energy consumed and other descriptive information for such Properties as required by the Benchmarking Tool into the Benchmarking Tool.

8.67.090 PROVISION OF BENCHMARKING INFORMATION BY TENANTS TO THE OWNER

Each Tenant located in a Covered Property shall, within 30 days of a request by the Owner and in a form to be determined by the Department, provide all information that cannot otherwise be acquired by the Owner and that is needed to comply with the requirements of this Ordinance. Failure to provide information to an Owner may result in penalties as provided under Section 8.67.130.

8.67.100 EMISSION REDUCTION REQUIREMENTS

- (1) Baseline: The default Baseline years for Covered Properties shall be calendar years 2018 and 2019.
- (2) Performance requirement: Each Covered Property shall comply on an annual basis with Greenhouse Gas Emissions requirements according to the following schedule of Greenhouse Gas Emissions relative to the Baseline:
 - (a) For non-residential Covered Properties of 100,000 Covered Square Feet or greater:
 - (i) In Compliance Period 1, from 2026 to 2029, annual Greenhouse Gas Emissions will not exceed 80% of the Baseline.
 - (ii) In Compliance Period 2, from 2030 to 2034, annual Greenhouse Gas Emissions will not exceed 40% of the Baseline.
 - (iii) From 2035 onwards, annual Greenhouse Gas Emissions will not exceed zero.
 - (b) For non-residential Covered Properties of 25,000 to 99,999 Covered Square Feet:
 - (i) In Compliance Period 1, from 2026 to 2029, annual Greenhouse Gas Emissions will not exceed 100% of the Baseline.
 - (ii) In Compliance Period 2, from 2030 to 2034, annual Greenhouse Gas Emissions will not exceed 60% of the Baseline.
 - (iii) In Compliance Period 3, from 2035 to 2039, annual Greenhouse Gas Emissions will not exceed 40% of the Baseline.
 - (iv) In Compliance Period 4, from 2040 to 2044, annual Greenhouse Gas Emissions will not exceed 20% of the Baseline.
 - (v) In Compliance Period 5, from 2045 to 2049, annual Greenhouse Gas Emissions will not exceed 10% of the Baseline.
 - (vi) From 2050 onwards, annual Greenhouse Gas Emissions will not exceed zero.
 - (c) For Residential Covered Properties that are not fully held in Condominium or Cooperative ownership:
 - (i) In Compliance Period 1, from 2026 to 2029, annual Greenhouse Gas Emissions will not exceed 100% of the Baseline.
 - (ii) In Compliance Period 2, from 2030 to 2034, annual Greenhouse Gas Emissions will not exceed 80% of the Baseline.

- (iii) In Compliance Period 3, from 2035 to 2039, annual Greenhouse Gas Emissions will not exceed 60% of the Baseline.
- (iv) In Compliance Period 4, from 2040 to 2044, annual Greenhouse Gas Emissions will not exceed 40% of the Baseline.
- (v) In Compliance Period 5, from 2045 to 2049, annual Greenhouse Gas Emissions will not exceed 20% of the Baseline.
- (vi) From 2050 onwards, annual Greenhouse Gas Emissions will not exceed zero.

(3) New Covered Properties: The Baseline for a New Covered Property shall be the average Greenhouse Gas Emissions of the first two calendar years following issuance of the Certificate of Occupancy. New Covered Properties shall comply with the following performance requirements on annual basis:

- (a) For non-residential New Covered Properties of 100,000 Covered Square Feet or greater, Greenhouse Gas Emissions shall not exceed 80% of the Baseline in the fourth year after the Baseline period or 2026, whichever is later. Thereafter, the New Covered Property shall reduce Greenhouse Gas Emissions in three-year Compliance Periods that achieve a linear reduction to zero Greenhouse Gas Emissions in 2035, except no such New Covered Property shall exceed zero Greenhouse Gas Emissions in 2035 and onwards.
- (b) For non-residential New Covered Properties of less than 100,000 Covered Square Feet, and residential New Covered Properties that are not fully held in Condominium or Cooperative ownership, Greenhouse Gas Emissions shall not exceed 80% of the Baseline in the years 2030 to 2034, 60% of the Baseline in the years 2035 to 2039, 40% of the Baseline in the years 2040 to 2044, 20% of the Baseline in the years 2045 to 2049, and zero in 2050 and onwards. Such New Covered Properties that receive their Certificate of Occupancy in 2030 or onwards shall reduce Greenhouse Gas Emissions in five-year Compliance Periods that achieve a linear reduction to zero Greenhouse Gas Emissions in 2050, except no such New Covered Property shall exceed zero Greenhouse Gas Emissions in 2050 and onwards.

(4) Alternative Baseline: An Owner may request alternative Baseline years for a Covered Property that is prior to the default Baseline years of 2018-2019. The alternative Baseline must be the average Greenhouse Gas Emissions of two consecutive years between 2010 and 2018. The request for an alternative Baseline must be submitted to the Department prior to the Covered Property's first Compliance Period per 8.67.100(2) and, if approved, shall remain the Baseline for all future Compliance Periods. Owners shall ensure that the Energy use for the alternative Baseline years has been inputted into the Benchmarking Tool and that Benchmarking Information and any Renewable Electricity for the alternative Baseline years have been provided to the Department. A Covered Property that uses an alternative Baseline shall comply with performance requirements that include an additional 2.5% reduction for every year between the start of its Baseline and 2018.

- (5) Use of Verified Carbon Credits: Only non-residential Covered Properties of 100,000 Covered Square Feet or greater may use Verified Carbon Credits to offset their Greenhouse Gas Emissions. Verified Carbon Credits must achieve verified emissions reductions in the same year as the Greenhouse Gas Emissions that are being offset, and documentation thereof must be submitted to the Department by the subsequent May 1 reporting deadline. Verified Carbon Credits may be used only to offset Greenhouse Gas Emissions from the use of Energy other than electricity and may not exceed the following limits:
- (a) In Compliance Period 1, from 2026 to 2029, no Verified Carbon Credits will be permitted.
 - (b) In Compliance Period 2, from 2030 to 2034, Verified Carbon Credits will not exceed 20% of the Baseline.
 - (c) In Compliance Period 3, from 2035 to 2039, Verified Carbon Credits will not exceed 40% of the Baseline.
 - (d) In Compliance Period 4, from 2040 to 2044, Verified Carbon Credits will not exceed 20% of the Baseline.
 - (e) In Compliance Period 5, from 2045 to 2049, Verified Carbon Credits will not exceed 10% of the Baseline.
 - (f) From 2050 and onwards, no Verified Carbon Credits will be permitted.
- (6) Use of Alternative Compliance Credits: Alternative Compliance Credits must be obtained prior to the May 1 reporting deadline for the calendar year in which they are applied.
- (7) Use of Renewable Electricity: Any Renewable Electricity must be obtained in the year in which it is applied, and documentation thereof must be submitted to the Department by the subsequent May 1 reporting deadline. In calculating Greenhouse Gas Emissions, a Covered Property that for a Covered Property, an Owner that uses consumes electricity from a generating facility in Cambridge that uses combustible fuels to generate electricity for direct use by the Covered Property may subtract Renewable Electricity from said generated electricity only as long as the Emission Factor for the generated electricity is less than or equal to the Emission Factor for electricity purchased from the grid. The Assistant City Manager for Community Development shall promulgate regulations pursuant to 8.67.130 to establish a methodology for evaluating the Emission Factor for generated electricity compared to grid electricity.
- (8) Deferral: A Covered Property may apply to the Review Board with a detailed plan to defer compliance with any Greenhouse Gas Emissions requirements for up to five years, such that the cumulative Greenhouse Gas Emissions of the Covered Property from the start of the deferred compliance through 2050 do not exceed what they would be without such deferral. Such plans must detail the expected measures that will result in compliance within five years and must comply with any regulations that may be promulgated hereunder. The Review Board may issue its approval of such plans for one or more years, upon which said Covered Property is deemed to be in compliance for said years. In no event shall a deferred compliance plan be approved that results in Greenhouse Gas Emissions being above zero in 2050 or beyond. After the conclusion of the approved deferral period of five years or less, the Covered Property shall annually

purchase Alternative Compliance Credits for any Greenhouse Gas Emissions in excess of the amount proposed in the deferral plan. The Assistant City Manager for Community Development shall promulgate regulations pursuant to 8.67.130 that establish minimum performance requirements that a Covered Property must meet during a period of deferred compliance.

- (9) Hardship: A Covered Property may submit a Hardship Compliance Plan for consideration to the Review Board. Hardship Compliance Plans must comply with any regulations that may be promulgated hereunder. The Review Board may issue its approval of such Hardship Compliance Plan for one or more years, upon which said Covered Property is deemed to be in compliance for said years.
- (10) Campus: A Campus may choose to comply with the requirements of Section 8.67.100 at the level of each Covered Property or at the level of the aggregate Campus Greenhouse Gas Emissions, and the Owner shall determine the method by which they intend to comply, and once determined, this method shall be used for all Compliance Periods. The annual performance requirement for a Campus complying at the aggregate level shall be the total of Greenhouse Gas Emissions allowed for each of the individual Covered Properties in that year, as determined by the performance requirements in 8.67.100(2)-(4). [A New Covered Property may be included in an existing Campus if the Owner determines prior to the end of the New Covered Property's Baseline period that this is the method by which it will comply.](#) The use of Verified Carbon Credits by such a Campus shall similarly be limited to the total Verified Carbon Credits allowed for the individual Covered Properties, as determined by 8.67.100(5). The Greenhouse Gas Emissions of such a Campus shall be the total Greenhouse Gas Emissions of the individual Covered Properties. An Owner may only define one Campus from their Covered Properties. [An Owner may include in a Campus one or more properties under 25,000 Covered Square Feet or with less than 50 Dwelling Units; such properties shall be subject to the requirements for Covered Properties of 25,000 to 99,999 Covered Square Feet.](#)
- (11) Backup generation: The use of Energy for emergency back-up systems shall be considered exempt from the Greenhouse Gas Emissions requirements of this section through 2030. The Review Board shall evaluate the appropriateness of continued exemption by May 1, 2030.

8.67.110 MAINTENANCE OF RECORDS AND DATA VERIFICATION

- (1) Owners shall maintain records as the Department determines is necessary for carrying out the purposes of this Ordinance, including but not limited to energy and water bills and other documents received from Tenants and/or Utilities. Such records shall be preserved by Owners for a period of seven (7) years. At the request of the Department, such records shall be made available for inspection and audit by the Department.
- (2) Owners shall self-certify their reporting data every year.
- (3) For the two Baseline years, Owners shall provide a third-party verification of their reporting data, submitted by the benchmarking deadline for the first year of the first compliance period. Verifications must be performed by an Approved Verification Body.

- (4) For the first year of each compliance period, Owners shall provide a third-party verification of their reporting data, submitted by the benchmarking deadline for that year per 8.67.050(1). Covered Properties reporting as in a Campus will have until July 1 of the deadline year to submit verification of their data. Verifications must be performed by an Approved Verification Body.
- (5) For the generation of steam, hot water, chilled water, or electricity other than Renewable Electricity, the owner of the generating facility shall provide annual third-party verification of the facility's Energy inputs and outputs and of the calculated Emission Factor for each output. Verifications must be performed by an Approved Verification Body.
- (6) In the event that there is a discrepancy between third-party verified data and an Owner's self-certified reporting data, any resulting lack of compliance with the emissions reduction requirements in Section 8.67.100 shall be a violation.
- (7) At the time any occupied Covered Building is transferred to new ownership, the buyer and seller shall arrange for the seller to provide to the buyer all energy and water information necessary for the buyer to report complete Benchmarking Information for the entire year. It shall be a violation of this Ordinance for any seller to fail to so provide any such information within 30 days of request by the buyer.

8.67.120 VIOLATIONS

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

8.67.130 ENFORCEMENT AND ADMINISTRATION

- (1) The Assistant City Manager for Community Development or their designee shall be the Chief Enforcement Officer of this Ordinance.
- (2) The Assistant City Manager for Community Development may promulgate regulations relative to the administration of the requirements of this Ordinance as necessary.
- (3) There is established by this Ordinance a Review Board of nine members, each appointed by the City Manager for a term of up to three years, of which two shall be members of a climate advocacy organization, two shall be representatives of the real estate or business sectors, and five shall be technical experts who understand the urgency of climate change. These technical experts may include but not be limited to energy engineers, decarbonization retrofit project managers, building engineers, and accredited professionals in sustainable building design. The members shall elect a member every three years to serve as Chair of the Review Board. Regulations shall establish the minimum frequency of the meetings of the Review Board and any compensation for members. Staff support for the Review Board shall be provided by the Department.

- (4) By December 31, 2028, in consultation with Covered Property Owners, the Department shall review compliance with Section 8.67.100 of this Ordinance and report to the City Council.
- (5) If any person or entity fails to report the Benchmarking Information, such failure to report shall be deemed a violation and the following enforcement measures may be taken:
 - (a) For the first violation, a written warning may be issued; and
 - (b) For any subsequent violation, the Department may issue a fine of up to \$300.00 per violation, per day, pursuant to the provisions of Chapter 1.24 herein. Each day that the property remains in violation shall constitute a separate offence.
- (6) In the event that third-party verification of Benchmarking Information reported by an Owner identifies a discrepancy with an Owner's self-certified reporting, or an Owner neglects to obtain third party verification, such discrepancy shall be deemed a violation and the following enforcement measures may be taken:
 - (a) For the first violation, a written warning may be issued; and
 - (b) For any subsequent violation, the Department may issue a fine of up to \$300.00 per violation, per day, pursuant to the provisions of Chapter 1.24 herein. Each day of violation shall constitute a separate offence.
- (7) If any person or entity fails to meet the emission reduction requirements, such failure shall be deemed a violation and the following enforcement measures may be taken:
 - (a) For the first violation, a written warning may be issued; and
 - (b) For any subsequent violation, the Department may issue a fine of up to \$300.00 per violation, per day, pursuant to the provisions of Chapter 1.24 herein. Each day of violation shall constitute a separate offence.

8.67.140 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.

8.67.150 EFFECTIVE DATE

The provisions of this Ordinance shall be effective immediately upon passage.