



## Legislation Text

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**File #:** Ord 19-81, **Version:** 2

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Creating Title XXXI to be entitled City Sustainability and Resiliency, and Chapter 440 of the Legislative Code relating to the regulation of building energy consumption through the establishment of regulations.

The Council of the City of Saint Paul Does Hereby Ordain:

### **Section 1.**

That the Legislative Code is hereby amended by adding a new Title to be numbered XXXI which shall be entitled City Sustainability and Resiliency which shall contain ten chapters for legislative ordinances pertaining Sustainability and Resiliency beginning with Chapter 440 pertaining to Energy Benchmarking.

### **Section 2.**

That Title XXXI - CITY SUSTAINABILITY AND RESILIENCY, established under Section 1 of this ordinance is hereby amended by adding a new chapter to be numbered Chapter 440 and entitled Energy Benchmarking to require Owners of Covered Properties to use the U.S. Environmental Protection Agency's ENERGY STAR Portfolio Manager to track and assess the Energy and water use of certain properties relative to similar properties which shall read as follows:

#### Chapter - 440. Energy Benchmarking

##### Sec. 440.01. - Legislative purpose and intent.

- (1) Council finds that the City of Saint Paul's commitment to the Global Covenant of Mayors for Climate and Energy and the City's adopted goal of reaching carbon neutrality in building Energy use by 2050 will require aggressive efforts to reduce overall Energy use in buildings through efficiency, conservation, and conversion to renewable or carbon-free Energy sources.
- (2) Council further finds that the Minnesota State Legislature has adopted a goal of 80 percent reduction in greenhouse gas emissions statewide by 2050 (Minn. Stat. §216H.02). Based on the belief that improving Energy efficiency is one of the most constructive and cost-effective ways to address the challenges of high Energy prices, Energy security and independence, air pollution, and global climate change.
- (3) Council also finds that through participation in Xcel Energy's Partners in Energy program, the City of Saint Paul identified addressing building sector Energy use as a key component of achieving the City's climate and Energy goals.
- (4) Council also finds that analysis by the EPA of over 35,000 buildings using the ENERGY STAR Portfolio

Manager benchmarking program over three years documented a reduction of Energy use by an average of 2.4 percent per year for a total savings of 7 percent.

- (5) The council finds that mandatory building Energy Benchmarking is a proven strategy adopted in over 20 cities around the country to drive greenhouse gas emission reductions. This simple and low-cost first step for businesses sets them on an efficiency path to save money, strengthen their brand, and stimulate the local economy, with an estimated avoidance of 69,000 metric tons of CO2 equivalent in the year 2030 alone, equal to removing over 14,000 cars from the road and representing almost 3% of citywide emissions from buildings.
- (6) Council finds that Benchmarking is low cost. The EPA's ENERGY STAR Portfolio Manager online Benchmarking Tool is free, and Benchmarking typically requires less than 10 hours annually to complete. Furthermore, the electric and gas Utility, Xcel Energy, provides data aggregation and automatic data transfer of whole building Energy data, making ongoing benchmarking simple and accurate.
- (7) Council finds that Owners of Covered Properties who use the Energy Benchmarking Tool gain further understanding how their buildings' Energy and water waste impacts not only their bottom line, but also climate change and resilience.
- (8) The council finds that the purpose of this chapter is to provide for the public health and welfare by encouraging Energy conservation through mandating that Owners of Covered Properties use the Energy Benchmarking Tool. Benchmarking assists Saint Paul in meeting its greenhouse gas emissions goals and contributes to future resilience, protecting both city investments in infrastructure and private investments in property.

Sec. 440.02. - Definitions. The following words or terms shall have the following meanings within this chapter.

- (1) *Benchmarking Information.* The total Energy and water consumed for a property for the previous calendar year along with the property address, city, state, zip code, Total Floor Area, property use type (or types), year built, occupancy and responsible party.
- (2) *Benchmarking Compliance.* Verification that a Covered Property has submitted a Benchmarking Submission.
- (3) *Benchmarking Submission.* Input and submission of Benchmarking Information into the Benchmarking Tool in such a manner that it leads to Benchmarking Compliance.
- (4) *Benchmarking Tool.* The U.S. Environmental Protection Agency's ENERGY STAR Portfolio Manager.
- (5) *Covered City Property.* A property that:
  - a. Is greater than or equal to 25,000 gross square feet in Total Floor Area; and
  - b. Is owned, leased, or managed by the city such that the city regularly pays all or part of the annual Energy and/or water bills.
- (6) *Covered Non-city Property.* A property, other than a Covered City Property, that is greater than or

equal to 50,000 gross square feet in Total Floor Area.

- (7) *Covered Property.* Any Covered City Property or Covered Non-city Property. Covered Properties do not include:
- a. Single family, duplex, triplex and fourplex residential properties and related accessory structures, or any other residential property with fewer than 5 units; and
  - b. Properties classified as industrial per designated Standard Industrial Classification (SIC) codes 2000 through ~~3999~~ 4999; and
  - c. Properties owned by government bodies not subject to the authority of this ordinance; and
  - d. Other property types not meeting the purpose of this Chapter, as determined by the Director.
- (8) *Department.* The Department of Safety and Inspections
- (9) *Director.* The Director of the Department of Safety and Inspections.
- (10) *Energy.* Electricity, natural gas, hot water, chilled water, or other product sold by a Utility to a customer, or renewable on-site electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses captured by ENERGY STAR Portfolio Manager.
- (11) *Energy and Water Benchmarking Information.* Information entered by the Owner of a Covered Property into ENERGY STAR Portfolio Manager that represents the total annual water and Energy consumption by that building.
- (12) *ENERGY STAR Score.* A 1-100 numeric rating generated by the ENERGY STAR Portfolio Manager tool.
- (13) *ENERGY STAR Portfolio Manager.* The tool developed and maintained by the U.S. Environmental Protection Agency to track and assess the relative Energy performance of buildings nationwide.
- (14) *Financial Hardship.* Properties that:
- (a) Have had arrears of property taxes or water or wastewater charges that resulted in the property's inclusion, within the prior two years, on the city's annual tax lien sale list; or
  - (b) Have had a court appointed receiver in control of the asset due to financial distress; or
  - (c) Are owned by a financial institution through default by the borrower; or
  - (d) Have been acquired by a deed in lieu of foreclosure; or
  - (e) Have a senior mortgage subject to a notice of default.
  - (f) Are on Saint Paul's vacant building list.
- (15) *Owner.* Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding fee title to the property; or otherwise having control of the property, including the recorded contract for deed, the

guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

- (16) **Total Floor Area.** The sum of gross square footage inside the building envelope, measured between the outside surface of the exterior walls of the building. Total Floor Area includes covered parking structures.
- (17) **Utility.** An entity that distributes and sells water or Energy services for buildings.

Sec. 440.03. - Collecting and entering Benchmarking data.

- (1) The Owner of a Covered Property must provide a Benchmarking Submission into the Benchmarking Tool for the Covered Property on an annual basis. Whole-building Utility data for the property's water and Energy use must be compiled using one or more of the following methods:
- (a) Obtaining aggregated whole building use data from a Utility; or
  - (b) Reading a master meter.
- (2) Before providing a Benchmarking Submission, the Owner of a Covered Property shall run all automated data quality checker functions available within the Benchmarking Tool, and shall correct all missing or incorrect information identified.
- (3) Where the Owner of a Covered Property learns that any information reported is inaccurate or incomplete, the information so reported shall be amended in the Benchmarking Tool by the Owner of the Covered Property, and the Owner of the Covered Property shall provide the Director with an updated Benchmarking Submission within 30 days of learning of the inaccuracy.

Sec. 440.04. - Benchmarking schedule.

- (1) The Owner of a Covered Property shall provide a Benchmarking Submission by inputting their Benchmarking Information into the Benchmarking Tool in accordance with the schedule in the following table. Subsequent Benchmarking Compliance Submissions for each Covered Property shall be due by June 1 of each year thereafter.

Upon providing a Benchmarking Submission that complies with the requirements of this ordinance, the Owner of a Covered Property will receive verification of Benchmarking Compliance. Proof of Benchmarking Compliance will be electronically sent to the Director of Planning and Economic Development after the Owner of a Covered Property has successfully input their Benchmarking Information into the Benchmarking Tool.

Sector	Property	Initial Reporting Date
Commercial		
	Covered City Properties ≥ [25k] sq. ft.	[June 1, 2020]
	Covered Non-city Properties ≥ [100k] sq. ft.	[June 1, 2020]
	Covered Non-city Properties ≥ [50k] sq. ft.	[June 1, 2021]

Residential - 5 or more Units		
	Covered City Properties ≥ [25k] sq. ft.	[June 1, 2020]
	Covered Non-city Properties ≥ [100k] sq. ft.	[June 1, 2020]
	Covered Non-city Properties ≥ [50k] sq. ft.	[June 1, 2021]

(2) The Director shall maintain a list of Covered Properties that have provided a Benchmarking Submission by September 15 beginning the year after each such Owner of a Covered Property is first required to provide a Benchmarking Submission and by September 15 each year thereafter.

Sec. 440.05. - Single-Year Benchmarking Exemptions.

- (1) A Benchmarking Submission is not required for a Covered Property for the current reporting year if the Owner submits documentation to the Director in such form and with such certifications as required by the Director, establishing that the Covered Property met one or more of the following conditions for the calendar year:
- a. The Covered Property was enrolled in the vacant building program for that full year;
  - b. A current demolition permit for the Covered Property was issued during that year;
  - c. The Covered Property received no Energy services for at least 30 days during that year;
  - d. On average, less than 50% of the Covered Property's total floor area was occupied over that year.
- (2) ~~A Benchmarking Submission is not required for a Covered Property for a reporting year if the Owner submits documentation to the Director, in such form and with such certifications as required by the Director, establishing that the property has met one or more of the following conditions:~~
- ~~a. It meets any of the exemptions defined for a Covered City Property;~~
  - ~~b.e. The Covered Property is under Financial Hardship;~~
- (3) Any Owner of a Covered Property requesting an exemption from providing a Benchmarking Submission shall, by June 1 in the year for which the exemption is being requested, submit to the Director any documentation reasonably necessary to substantiate the request or otherwise assist the Director in the exemption determination. Any exemption granted will be limited to the Benchmarking Submission for which the request was made and does not extend to past or future submittals.

Sec. 440.06 ~~Benchmarking Compliance~~ Departmental Roles.

(1) The Director shall receive a ~~Benchmarking Compliance Report~~ list of properties that have made a Benchmarking Submission annually from the Director of Planning and Economic Development

(2) The Director shall compare the ~~annual Benchmarking Compliance Report~~ list of properties tht have made a Benchmarking Submission to a list of Covered Properties on an annual basis to ensure each Covered Property ~~has made a Benchmarking Submission~~ is in compliance.

Sec. 440.07 - Annual Notification by the City.

(1) By March 1 of each year, the Director shall notify the Owner of each Covered Property of the need to provide a Benchmarking Submission.

(2) By July 15, the Director shall notify the Owner of each Covered Property that failed to provide a Benchmarking Submission that they have 30 days to provide a Benchmarking Submission.

Sec. 440.08 - Violations and enforcement.

(1) If the Director determines that an Owner has failed to provide a Benchmarking Submission as required under this ordinance, the Director will:

(a) Issue a written warning and notice that a Benchmarking Submission must be completed within 30 days ~~for~~ of the first violation of failure to submit a Benchmarking Submission; and

(b) If the Benchmarking Submission is not submitted within 30 days of the date the written warning is issued, the Director may issue a citation. The offense shall be a petty misdemeanor, for which a fine of \$200 will be leveled.

(c) Each day that an Owner fails to provide a Benchmarking Submission that results in Benchmarking Compliance may be deemed a separate offense and a separate petty misdemeanor citation may be issued.

Sec. 440.09. - Compliance Standards for Benchmarking Submission.

In order for a Benchmarking Submission to be deemed complete for purposes of Benchmarking Compliance, the Owner of a Covered Property must complete the Benchmarking Submission process in the Benchmarking Tool.

Sec. 440.10. - Severability

If any part or provision of this chapter or the application thereof to any person, entity or circumstances shall be adjudged unconstitutional or invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application that is directly involved in the controversy in which such judgment shall have been rendered, and shall not affect or impair the validity of the remainder of this chapter or the application thereof to other persons, entities or circumstances.

**Section 3.**

That the following chapters are hereby reserved for future use under this title:

Chapters - 441 - 449 RESERVED

**Section 4.**

These amendments shall take effect thirty (30) days after their passage, approval, and publication.