

ORDINANCE NUMBER 1360

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City of Cambridge

In the Year Two Thousand and Twenty-

One 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**

**8.67.10 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 Department 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. In lieu of payment, the Department may accept, upon prior written agreement and at its discretion, until the 2035 Compliance Period but not thereafter, documentation from the Property Owner that they have paid for the elimination of one ton of greenhouse gas emissions in the same year in a Covered Property not owned or controlled by the Property Owner, in excess of the Covered Property's GHG reduction requirements under this ordinance, as demonstrated by the benchmarking report of said Covered Property. Monies from Alternative Compliance Credits shall be used by the City for City programs and projects to support greenhouse gas reduction, including but not limited to, greenhouse gas reduction projects in Affordable Housing properties, if approved by the Cambridge Affordable Housing Trust, and funding for Green Jobs training programs.
- (3) “Deferred Alternative Compliance Credit” (Deferred Credit) shall mean Alternative Compliance Credit that is deferred for up to 5 years against a planned capital expense,

and up to 5 additional years for a capital expense actively being executed by the Covered Property owner. The Department shall promulgate regulations pursuant to 8.67.130 to administer Deferred Alternative Compliance Credits. No new Deferred Credits will be approved by the Department after 2035, nor shall the Department approve Deferred Credits against more than one capital project per building. One Deferred Credit can be granted by the Department against only one future reduction of one metric ton of GHG Emissions. If the project, or an alternative project approved by the Department, is not initiated after 5 years, or is not completed within 5 years after it is initiated, or upon completion does not yield sufficient reductions to cover the total outstanding Deferred Credits that are expiring in that Compliance Period, the balance of expired Deferred Credits are due upon their expiration at their original cost, plus 10% for each year that each Credit was deferred. Deferred Credits may also be paid by the property owner during any Compliance Period prior to their expiration at their original cost, plus 10% for each year that each credit was deferred. Any remainder deferral period shorter than one year shall count as one full year. Deferred Credits may be credited against the completed project until 2035. For example, if the project is completed in 2032, and supposing the building reports zero emissions in 2033 and subsequent years, then an additional 8% of emissions would be available in each subsequent Compliance Year to credit against outstanding Deferred Credits, so 8% in 2033, 16% in 2034 and 24% in 2035. After 2035, any outstanding Deferred Credits would be due, plus an additional 10% for each year they were deferred.

- (4) “Verified Local Carbon Credit” (Local Carbon Credit) shall mean a third-party verified, permanent reduction of one metric ton of Greenhouse Gas Emissions, certified by the Department, achieved locally to Cambridge, but not in any Covered Property. The Department shall promulgate regulations pursuant to 8.67.130 to certify Local Carbon Credits. The Department may decide at its discretion what it considers “local” to Cambridge, but at no point shall the definition of “local” exceed the generally agreed upon regional boundaries of New England. The percentage of outstanding Alternative Compliance Credits for each Compliance Period that can be satisfied through Local Carbon Credits shall decline at the rate of 5% per year, starting at 100% in 2025 and declining to 0% in 2045. Up to the allowed percentage for that Compliance Period, a Covered Property Owner may subtract the cost of one Local Carbon Credit it has paid for during that Compliance Period from the cost of an Alternative Compliance Credit prior to obtaining the Alternative Compliance Credit, up to the cost of an Alternative Compliance Credit. After 2045, no Local Carbon Credits will be accepted.
- (5) “Verified Global Carbon Credit” (Global Carbon Credit) shall mean a third-party verified, permanent reduction of one metric ton of Greenhouse Gas Emissions, certified by the Department. The Department shall promulgate regulations pursuant to 8.67.130 to certify Global Carbon Credits. The percentage of outstanding Alternative Compliance Credits for each Compliance Period that can be satisfied through Global Carbon Credits shall decline at the rate of 10% per year, starting at 100% in 2025 and declining to 0% in 2035. Up to the allowed percentage for that Compliance Period, a Covered Property Owner may subtract the cost of one Global Carbon Credit it has paid for during that

Compliance Period from the cost of an Alternative Compliance Credit prior to obtaining the Alternative Compliance Credit, up to the cost of an Alternative Compliance Credit. After 2035, no Global Carbon Credits will be accepted.

- (6) “Approved Verification Body” shall mean a firm accredited by the American National Standards Institute to conduct greenhouse gas inventory verification services.
- (7) “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 construction baseline as set forth in section 8.67.100 for purposes of calculating emissions reductions in order to meet the requirements of this ordinance set forth in section 8.67.100.
- (8) “Benchmarking Information” shall mean information 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;
  - (h) The energy performance score that compares the energy use of the building to that of similar buildings, where available; and
  - (i) Compliance or noncompliance with this Ordinance.
- (9) “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, or other tools identified by the Department to collect and track Benchmarking Information necessary for compliance with this ordinance
- (10) “Campus” shall mean Affordable Housing, or a minimum of 5 (five) Covered Properties owned or controlled by the same organization, and the Covered Properties comprising a Campus shall be considered a single entity for compliance purposes ~~that are owner-occupied properties or Affordable Housing.~~
- (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 to 49,999.99 square feet (“Small Non-Residential

Covered Property”);

- (b) One or more non-residential building(s), where such building(s) singly or together contain 50,000 or more square feet (“Large Non-Residential Covered Property”); and
- (c) One or more residential building(s) that singly or together contain 50 or more residential Dwelling Units whether they are rental Dwelling Units or Dwelling Units owned as condominiums, cooperatives or otherwise (“Residential Covered Property”).

(12) “Department” shall mean the City of Cambridge Community Development Department.

(13) “Dwelling Unit” shall mean a single residential unit 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.

(14) “Emission Factors” shall mean the multipliers used to determine the annual Greenhouse Gas Emissions produced by the production or consumption of Energy. The Department shall promulgate regulations pursuant to 8.67.130 no later than ~~two~~ the ~~years~~ prior to each Compliance Period to establish the annual Emission Factors for that Compliance Period, and no later than ~~two~~ the ~~years~~ prior to the first Compliance Period to establish the annual Emission Factors for 2010-2024.

- (a) For the combustion of fuels, such as oil and gas, where the combustion does not result in the generation of electricity, the Emission Factors will be based on standard scientific values published by federal agencies.
- (b) For the use of all electricity generated and consumed onsite, other than Renewable Electricity, the Emissions Factor shall be derived from the actual carbon intensity of the produced electricity.
- (c) For the use of all electricity purchased over the grid, other than Renewable Electricity, the annual Emission Factor will be based on the Commonwealth of Massachusetts’s calculations and projections of emissions from electricity consumed in Massachusetts.
- (d) For the generation or consumption of steam, hot water, electricity generated but not consumed onsite, and chilled water, the Emission Factors will be calculated based on the Emission Factor of the generation source for that product. If no Emissions Factor is available from the generation source, the Emission Factor will be calculated based on the Emission Factor published by the Commonwealth of Massachusetts for that product, unless the Commonwealth has not published such a multiplier, in which case the Emission Factor will be calculated using the methodology of the Greenhouse Gas Protocol developed by the World Resources Institute and World Business Council for Sustainable Development.

(15) “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.

- (16) “Energy Audit” shall mean an energy assessment of a covered property that meets the standards of the ASHRAE Level 2 Audit as specified by the Procedures for Commercial Building Energy Audits published by the American Society of Heating, Refrigeration, and Air-Conditioning Engineers.
- (17) “Energy Performance Score” shall mean the numeric rating generated by the ENERGY STAR Portfolio Manager tool or equivalent tool adopted by the department that compares the energy usage of the building to that of similar buildings.
- (18) “ENERGY STAR” shall mean the U.S. Environmental Protection Agency program related to improving energy efficiency in buildings and products.
- (19) “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.
- (20) “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.
- (21) “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; provided that Renewable Electricity shall be subtracted from the electricity consumption, up to a limit of the total electricity consumption.
- (22) “Greenhouse Gas Emissions Reduction Plan” shall mean a detailed strategy based on an Energy Audit or similar assessment which lists plans to invest in measures such as energy efficiency improvements, fuel switching, and Renewable Electricity purchases which will lead to reductions in annual Greenhouse Gas Emissions. The Plan should detail what measures are planned, when they are scheduled to occur, and how much Greenhouse Gas Emissions are projected to be reduced by each measure.
- (23) “Gross Square Feet” shall mean the gross floor area of the property as per the City of Cambridge Assessors’ records.
- (24) “Laboratory” shall mean a Covered Property with 15% or more of occupied building square footage with an air exchange rate of 0.5 cubic feet per minute per square foot (CFM/ft<sup>2</sup>) or greater.
- (25) “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.

(26) "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.

(27) ~~"Net Zero Emission Building" shall mean a Covered Property that has an annual balance of zero greenhouse gas emissions from building operations as defined by standards qualified by the Department.~~

(28) "Qualified Benchmarker" is an entity that meets the Department's qualifications for inputting Benchmarking Information into the Benchmarking Tool.

(29) "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 building or aggregated portfolio of buildings in Cambridge for the duration of the contract and made available for inspection by the City of Cambridge upon request. The building owner shall maintain transparent accounting that clearly assigns renewable energy production in the form of RECs in megawatt-hours to the building or aggregated portfolio of buildings 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.

- (30) "Residential Property" shall mean a property containing one or more Dwelling Units.
- (31) "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.
- (32) "Source Energy" shall mean all the energy used in delivering energy to a Covered Property, including power generation and transmission and distribution losses.
- (33) "Tenant" shall mean a person or entity leasing, occupying or holding possession of all or a portion of a Covered Property or Municipal Property.
- (34) "Utility" shall mean an entity that distributes and sells Energy for Covered Properties or Municipal Properties.

**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.

**8.67.030 APPLICABILITY**

- (1) This Ordinance is applicable to the following:
  - (a) All Municipal Properties as defined in Section 8.67.010(12) of this Ordinance; and
  - (b) All Covered Properties as defined in Section 8.67.010(3) 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 Large 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;
  - (c) A Small Non-residential Covered Property by May 1, 2016 and by every May 1 thereafter; and
  - (d) 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**

- (1) 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. Benchmarking Information received by the Department for the first year a Covered Property is required to input the total Energy consumed, and other descriptive information required by the Benchmarking Tool, into the Benchmarking Tool pursuant to Section 8.67.050 will be not be published except to disclose whether or not the Covered Property is in compliance with this Ordinance.

- (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
  - (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**

- (1) 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.
- (2) Where the Owner is unable to input the total Energy consumed by the Covered Property, as well as all other descriptive information for such Covered Property as required by the Benchmarking Tool, into the Benchmarking Tool due to the failure of any or all Tenants to report the information required by Section 8.67.090(1), the Owner shall input alternate values as established by the Department prior to the implementation of this Ordinance, into the Benchmarking Tool.

#### **8.67.100 EMISSION REDUCTION REQUIREMENTS**

- (1) Default Baseline: The default Baseline years for Covered Properties shall be calendar years 2018 and 2019.

- (2) For Covered Properties that receive their Certificate of Occupancy in the years 2018 through 2024, the Baseline shall be the average Greenhouse Gas Emissions for the first two full calendar years following the Certificate of Occupancy. Such Covered Properties shall comply with the following Performance Requirements in place of 8.67.100 (4) : (a) Compliance Period 1: in the fourth year following the end of the Baseline or 2025, whichever is later, annual Greenhouse Gas Emissions shall not exceed 80% of the Baseline; (b) every year thereafter, annual Greenhouse Gas Emissions shall not exceed a limit defined by a linear reduction to net zero in 2035.
- (3) For Covered Properties that receive their Certificate of Occupancy in the years 2025 and beyond the Baseline shall be net zero.
- (4) Performance requirement: Each Covered Property shall comply on an annual basis with Greenhouse Gas Emissions requirements according to the following schedule:
- (a) Compliance Period 1: 2025 ~~to 2029~~; annual Greenhouse Gas Emissions will not exceed 80% of the ~~default~~ Baseline
  - (b) Compliance Period 2: 20~~23~~~~0~~ to 2034; annual Greenhouse Gas Emissions will not exceed ~~86~~0% - (8% times the number of years elapsed since 2025) of the ~~default~~ Baseline
  - (c) Compliance Period 3: 2035 ~~to 2039~~; ~~annual Greenhouse Gas Emissions will not exceed 40% of the default Baseline~~
  - ~~(d) Compliance Period 4: 2040 to 2044; annual Greenhouse Gas Emissions will not exceed 20% of the default Baseline~~
  - ~~(e) Compliance Period 5: 2045 to 2049; annual Greenhouse Gas Emissions will not exceed 10% of the default Baseline~~
  - (f) ~~Compliance Period 6: 2050~~ onwards; annual Greenhouse Gas Emissions are net zero.
  - (g) The above schedule corresponds to the following table:

<u>2024</u>	<u>100%</u>
<u>2025</u>	<u>80%</u>
<u>2026</u>	<u>72%</u>
<u>2027</u>	<u>64%</u>
<u>2028</u>	<u>56%</u>
<u>2029</u>	<u>48%</u>
<u>2030</u>	<u>40%</u>
<u>2031</u>	<u>32%</u>
<u>2032</u>	<u>24%</u>
<u>2033</u>	<u>16%</u>
<u>2034</u>	<u>8%</u>
<u>2035</u>	<u>0%</u>

~~(5) — Alternative Baseline: An Owner may request an alternative Baseline 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, from 2010-2011 through 2018-2019. The request for an alternative Baseline must be submitted to the Department prior to the first compliance period and, if approved, shall remain the Baseline for all future compliance periods.~~

~~(a) 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 has been provided to the Department.~~

~~(b) A Covered Property with an alternative Baseline shall comply on an annual basis with adjusted performance requirements according to the table below; annual Greenhouse Gas Emissions will not exceed the indicated percentage of the alternative Baseline:~~

	Alternative Baseline Performance Requirements							
	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018
<del>Compliance Period 1: 2025 to 2029</del>	<del>66.7%</del>	<del>68.1%</del>	<del>69.6%</del>	<del>71.1%</del>	<del>72.7%</del>	<del>74.4%</del>	<del>76.2%</del>	<del>78.0%</del>
<del>Compliance Period 2: 2030 to 2034</del>	<del>50.0%</del>	<del>51.1%</del>	<del>52.2%</del>	<del>53.3%</del>	<del>54.5%</del>	<del>55.8%</del>	<del>57.1%</del>	<del>58.5%</del>
<del>Compliance Period 3: 2035 to 2039</del>	<del>33.3%</del>	<del>34.0%</del>	<del>34.8%</del>	<del>35.6%</del>	<del>36.4%</del>	<del>37.2%</del>	<del>38.1%</del>	<del>39.0%</del>
<del>Compliance Period 4: 2040 to 2044</del>	<del>16.7%</del>	<del>17.0%</del>	<del>17.4%</del>	<del>17.8%</del>	<del>18.2%</del>	<del>18.6%</del>	<del>19.0%</del>	<del>19.5%</del>
<del>Compliance Period 5: 2045 to 2049</del>	<del>8.3%</del>	<del>8.5%</del>	<del>8.7%</del>	<del>8.9%</del>	<del>9.1%</del>	<del>9.3%</del>	<del>9.5%</del>	<del>9.8%</del>
<del>Compliance Period 6: 2050 onwards</del>	<del>0%</del>	<del>0%</del>	<del>0%</del>	<del>0%</del>	<del>0%</del>	<del>0%</del>	<del>0%</del>	<del>0%</del>

(6) Exemptions: A Covered Property will be exempted by the Department from the requirements of 8.67.100 if it qualifies as one of the following:

~~(a) New construction: For Covered Properties that receive an initial Certificate of Occupancy after the start of the default Baseline years, the Baseline shall be the average Greenhouse Gas Emissions of the first two full calendar years following the issuance of the Certificate of Occupancy. Such Covered Properties shall be exempt from the requirements of 8.67.100 for the five years following the conclusion of this Baseline period. The performance requirements for each subsequent five-year period shall be determined by a linear reduction to net zero emissions by 2050.~~

~~(b) A Net Zero Emissions Building;~~

~~(c) Vacancy: The Covered Property is fully vacant for the full year;~~

~~(d) The Covered Property is to be fully demolished within the forthcoming calendar year;~~

~~(e) Utility Failure: Owners of a Covered Property impacted by a utility failure may apply for an extension until the end of the current compliance period. Owners must provide verification by the utility to substantiate an exemption request due to utility failure. Any outstanding deferred Alternative Compliance Credits will be extended without penalty if an extension is granted. A building is considered impacted by~~

utility failure if it meets one of the following criteria:

- i. The utility failed to provide an interconnect or other infrastructure required to electrify the building during the Compliance Period, as agreed to under contract.
  - ii. The utility failed to meet its obligations in providing electricity, including Renewable Electricity to the building during the Compliance Period.
- (f) Backup Generators: Documented emissions from on-site Backup Generators will be exempt and can be subtracted from the emissions calculation if they meet the following criteria. This exemption will expire after the 2035 compliance period to encourage shifting to low and no-emissions back-up power sources:
- i. Emissions caused by routine testing of on-site back-up generators for maintenance and repair purposes.
  - ii. Emissions caused by a Utility Failure, including any power outage requiring the operation of on-site back-up generators.
- (g) Financial Distress: Owners of a financially distressed Covered Property may apply for an extension until the end of the current compliance period. Owners must provide a form of third-party verification to substantiate an exemption request due to financial distress. A building is considered in financial distress if it meets one of the following criteria:
- (i) The Covered Property is qualified for sale at a public auction due to arrears of public taxes within two years of the start of the compliance period.
  - (ii) The Covered Property is controlled by a court-appointed receiver due to financial distress.
  - (iii) The Covered Property is owned by a financial institution through default by the borrower.
  - (iv) The Covered Property has been acquired by deed in lieu of foreclosure.
  - (v) The Covered Property has a senior mortgage which is subject to a notice of default.

(7) The following building type-specific compliance pathways shall be permitted:

(a) Campus:

- (i) 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, provided that the worst performing Covered Property building on the Campus (the building with the highest value of total GHG emissions without subtracting Off-site Renewable Electricity, divided by GFA) is contributing durable GHG emissions reductions during that compliance period. Campus Owners must determine their Baseline according to the method by which they intend to comply with the requirements. Owners may request to adjust their Baseline to include in the aggregate Campus any new buildings that receive their Certificate of Occupancy after the start of the Baseline years.
- (ii) If the Covered Property that is part of a Campus is included in an institutional comprehensive plan and a corresponding energy management plan, and these plans have reduced Greenhouse Gas Emissions from buildings at the institutional level by the required amount for that compliance period, then the Covered

Property shall be considered to be in compliance. To show compliance with this pathway, the Owner must provide copies of the institutional comprehensive plan, institutional energy management plan, and the completed institution-wide greenhouse gas inventory for buildings for the compliance period.

- (b) ~~Laboratories and Affordable Housing and pre-existing Residential:~~
- (i) ~~Laboratories and Affordable Housing~~ shall have the option to comply with the following alternative compliance schedule:
    1. Compliance Period 1: 2027 to 2033; annual Greenhouse Gas Emissions will not exceed 66.7% of the ~~default~~ Baseline
    2. Compliance Period 2: 2034 to 2040; annual Greenhouse Gas Emissions will not exceed 33.3% of the ~~default~~ Baseline
    3. Compliance Period 3: 2041 to 2049; annual Greenhouse Gas Emissions will not exceed 16.6% of the ~~default~~ Baseline
    4. Compliance Period 4: 2050 onwards; annual Greenhouse Gas Emissions are net zero.
  - (ii) ~~Laboratory and Affordable Housing~~ owners choosing to follow the alternative compliance schedule shall submit documentation to the Department showing that the Covered Property qualifies as ~~a Laboratory or Affordable Housing~~ at the start of each 5-year compliance period.
  - (iii) ~~Laboratory and Affordable Housing~~ choosing to follow the alternative compliance schedule shall submit a Greenhouse Gas Emissions Reduction Plan to the Department four years prior to the start of each alternative compliance period detailing how the greenhouse gas emissions reduction requirement for that compliance cycle will be met.
  - ~~(iv) For newly constructed Laboratories and Affordable Housing that choose to follow the alternative compliance schedule and receive an initial Certificate of Occupancy after the start of the default Baseline years, the Baseline shall be the average Greenhouse Gas Emissions of the first two full calendar years following the issuance of the Certificate of Occupancy. Such Laboratories and Affordable Housing shall be exempt from the requirements of 8.67.100 for the seven years following the conclusion of this Baseline period. The performance requirements for each subsequent seven-year period shall be determined by a linear reduction to net zero emissions by 2050.~~
  - ~~(v) For Laboratories and Affordable Housing that request an alternative Baseline pursuant to 8.67.100 (2), the adjusted performance requirements shall be as follows; annual Greenhouse Gas Emissions will not exceed the indicated percentage of the alternative Baseline:~~

	Alternative Baseline Performance Requirements							
	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018
Compliance Period 1: 2027 to 2033	55.6%	56.8%	58.0%	59.3%	60.6%	62.0%	63.5%	65.1%
Compliance Period 2: 2034 to 2040	27.8%	28.3%	29.0%	29.6%	30.3%	31.0%	31.7%	32.5%
Compliance Period 3:	13.9%	14.2%	14.5%	14.8%	15.2%	15.5%	15.9%	16.3%

2041 to 2049								
Compliance-Period-4:	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
2050 onwards								

**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). Verifications must be performed by an Approved Verification Body.
- (5) 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.
- (6) At the time any occupied Covered Building is transferred, the buyer and seller shall arrange for the seller to provide to the buyer all information necessary for the buyer to report Benchmarking Information for the entire year in a timely manner. It shall be a violation of this Ordinance for any seller to fail to so provide any such information.

**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 his or her 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) By December 31, 2026, 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.
- (4) 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 of violation shall constitute a separate offence.
- (5) In the event that third-party verification of Benchmarking Information reported by an Owner identifies a discrepancy with an Owner's self-certified reporting, 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.
- (6) 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.