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Title: Ordinance supplementing the Pittsburgh Code of Ordinances, Title VI, Conduct, by adding a new Article and Chapter, "Article II : Sustainability, Chapter 626 : Building Benchmarking"

Sponsors:

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Date	Ver.	Action By	Action	Result
10/21/2016	1	Mayor	Signed by the Mayor	
10/18/2016	1	City Council	Passed Finally	Pass
10/11/2016	1	Standing Committee	Affirmatively Recommended	Pass
10/4/2016	1	City Council	Read and referred	

Ordinance supplementing the Pittsburgh Code of Ordinances, Title VI, Conduct, by adding a new Article and Chapter, "Article II : Sustainability, Chapter 626 : Building Benchmarking"

WHEREAS, the government of the City of Pittsburgh seeks to provide its citizens with safe and vibrant neighborhoods, great jobs, a strong system of education and innovation, and a high quality of life; and

WHEREAS, the adoption of Building Benchmarking increases transparency and access to building information, enhances coordination and efficiencies among departments and partner organizations across the public, nonprofit, and private sectors; and improves provision of services; and

WHEREAS, it should be easy to do business in the City of Pittsburgh. Online building information means more convenient services for citizens and businesses and online government interactions improve the cost-effectiveness and accuracy of large building specifications; and

WHEREAS, Pittsburgh-based nonprofit organization Green Building Alliance, the City of Pittsburgh, Allegheny County, and other founding partners launched the Pittsburgh 2030 District in 2012, demonstrating that to date over 470 buildings representing 74.5 million square feet are committed to 50% reductions in energy use, water consumption, and transportation emissions below baselines by the year 2030, while also voluntarily reporting annual performance against these goals to Green Building Alliance; and

WHEREAS, other leading U.S. cities, such as Philadelphia, New York City, Seattle, San Francisco, Austin, Boston, and Washington D.C., have adopted building energy reporting and transparency requirements, thus demonstrating the acceptability and feasibility of such requirements; and

WHEREAS, a transparent building benchmarking platform also makes certain that every aspect of the built environment has reliable digital descriptions of building information and performance available to citizens and entrepreneurs for deep engagement.

WHEREAS, in commitment to the Spirit of Business Transparency, Energy Conservation, and Responsible Water Use, the City of Pittsburgh will consider building information to be open by default and will proactively publish data and data-containing information, consistent with the Pennsylvania Right-to-Know and Open Meetings Laws; and

WHEREAS, energy and water benchmarking allows for more efficient management and maintenance the energy grid infrastructure and energy needs of the City; and

WHEREAS, building benchmarking allows for more transparent operating cost information to prospective tenants and investors and thereby improves Pittsburgh's competitive marketplace to attract said tenants and investors,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Pittsburgh as follows:

Section 1.

Article II: SUSTAINABILITY

Chapter 626: Building Benchmarking

§ 626.01 DEFINITIONS. As used in this legislation, the terms below shall have the following definitions:

- (a) "Benchmarking Application" means the internet-based database system known as "ENERGY STAR Portfolio Manager," or any successor system thereto, developed by the United States Environmental Protection Agency (EPA), to track and assess the energy and water consumption and performance of a building.
- (b) "Covered Building" is either of the following: (i) Any non-residential building with indoor floor space of 50,000 square feet or more. (ii) All non-residential portions of any mixed-use building where a total of at least 50,000 square feet of indoor floor space is devoted to any non-residential use.
- (c) "City Facility" is a building that appears in the records of the Department of Finance, that is owned by the City, or a building for which the City regularly pays all or part of the annual energy or water bills; for purposes of this Chapter, a City Facility is a Covered Building.
- (d) "Department" means the Department of Innovation and Performance, or such other department the Mayor may designate to administer this Section.
- (e) "Energy" means electricity, natural gas, steam, heating oil, or other products sold by a utility to a customer of a Covered Building, and on-site energy generation or renewable on-site energy generation, used for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses captured by the

ENERGY STAR Portfolio Manager, and / or any other sources of energy that the City may designate.

(f) “Owner” means any of the following:

- (1) An individual or entity possessing title to a Covered Building;
- (2) The net lessee in the case of a Covered Building subject to a triple net lease; or
- (3) An agent authorized, in writing on file with the Department, to act on behalf of any of the above.

(g) “Water” means water used for potable and nonpotable uses sold by a utility to a covered building, as well as non-purchased on-site water use from wells, the aquifer, reuse, and any other sources of water that the City may designate.

(h) “Statement of Energy Performance” means a statement of energy and water performance generated by EPA’s ENERGY STAR Portfolio Manager.

§ 626.02 BENCHMARKING AND BENCHMARKING SUBMISSION REQUIRED.

(a) The Owner or Owner’s designee of a Covered Building shall, no later than June 1 of each year, submit the following information to the Department, in EPA’s Energy Star Portfolio Manager for the previous calendar year, and share with the City of Pittsburgh: (i) Complete Building Energy Usage; (ii) Complete Building Water Usage; and, (iii) Building Characteristics and Use Attributes as required by the EPA’s Energy Star Portfolio Manager.

§ 626.03 BENCHMARKING EXEMPTION.

(a) The Department may exempt from the benchmarking requirements the Owner of a Covered Building that submits a request, together with documentation which demonstrates to the satisfaction of the Department any of the following criteria, at least 60 days prior to any benchmarking submission deadline:

- (1) The Covered Building does not have a certificate of occupancy or temporary certificate of occupancy for all 12 months of the calendar year being benchmarked.
- (2) A demolition permit has been issued for the Covered Building during the calendar year being benchmarked, provided that demolition work has commenced, energy-related systems have been compromised and legal occupancy is no longer possible prior to June 1 for the applicable year.
- (3) The Covered Building had average physical occupancy of less than 50 percent throughout the calendar year for which benchmarking is required.
- (4) The Department determines that, due to special circumstances unique to the Covered Building and not based on a condition caused by actions of the Owner, applicant, or operator, that strict compliance with provisions of this Chapter would cause undue hardship or would not be in the public interest.
- (5) The Covered Building is primarily used for manufacturing or other industrial purposes for which benchmarking results would not meaningfully reflect the Covered Building’s energy use characteristics due to the intensive use of process energy.
- (6) The Owner is unable to benchmark due to the failure of either a utility or a tenant (or both) to provide

the information necessary for the Owner to complete any benchmarking submittal requirement.

Any Owner requesting such an exemption shall provide the Department with any and all documentation requested to substantiate the request or otherwise assist the Department in the exemption determination. Any exemption granted shall be limited to the benchmarking submission for which the request was made and shall not extend to past or future submittals.

§ 626.04 INCLUSION OF NON-COVERED PROPERTIES ALLOWED

(a) Nothing in this Chapter shall be construed as to prevent a person or entity in control of a building, not otherwise a Covered Building, from submitting any benchmarking information to the Department, otherwise in accordance with this Chapter. The Department may enter into agreements with any such persons governing any such participation.

§ 626.05 TRANSPARENCY AND ANALYSIS OF BENCHMARKING INFORMATION.

(a) The City shall implement a Citywide program to provide an online-platform for the reporting of Citywide benchmarking data online and in a manner that permits Owners and tenants of Covered Buildings, prospective purchasers, and lessees, and the public to view and compare energy and water usage among comparable buildings and uses.

§ 626.06 NOTIFICATION AND POSTING.

(a) Between September 1 and December 31 of each year, the Department shall notify Owners of their obligation to benchmark for that calendar year, provided that the failure of the Department to notify any such owner shall not affect the obligation of such Owner to benchmark.

(b) By December 1 of each year, the City shall publicly post on the internet a list of all Covered Buildings and City Facility properties that must provide a benchmarking submission for the following calendar year.

§ 626.07 ENFORCEMENT AND CLASSIFICATION.

(a) A Covered Building Owner or City Facility operator who successfully complies with the benchmarking requirements in this Chapter will be publicly posted on the online platform described in § 626.05 as “participating.”

(b) A Covered Building Owner or City Facility operator who is exempt from benchmarking requirements, pursuant to Section 626.03, will be publicly posted on the online platform described in § 626.05 as “exempted.”

(c) A Covered Building Owner or City Facility operator who fails to comply with the benchmarking requirements in this Chapter will be publicly posted on the online platform described in § 626.05 as “eligible and non-participating.”

(d) Pursuant to Section 626.04, a property owner of a building that is not a Covered Building, or City Facility operator of a building that is not a Covered Building, yet successfully complies with the benchmarking

requirements in this Chapter, will be publicly posted on the online platform described in § 626.05 as “voluntarily participating.”

§ 626.08 IMPLEMENTATION.

(a) All City Facilities shall complete § 626.02 by June 1, 2017. All Covered Buildings shall complete § 626.02 by June 1, 2018f.

§ 626.09 SEVERABILITY

The provisions of this Chapter are severable. If any portion of this Chapter is held invalid, unenforceable, or unconstitutional by any court of competent jurisdiction, it shall not affect the validity of the remaining portions of this Chapter, which shall be given full force and effect.