

energy performance scores or, if a covered building does not receive an energy performance score from the benchmarking tool, its EUI. The system may also include the rating of covered buildings' energy performance improvement over time.

"Energy performance score" means the 1 to 100 numerical score produced by the benchmarking tool, also known as ENERGY STAR score, or any successor score thereto. The energy performance score assesses a building's energy performance relative to similar buildings, based on source energy use, operating characteristics, geographical location, and other factors.

"Energy use intensity" or "EUI" means a numeric value calculated by the benchmarking tool that represents the energy consumed by a building relative to its size.

"Group 1 covered building" means any building or group of buildings that have the same property identification or index number (PIN) or, with regard to condominium buildings, any building in which the first seven digits of the property identification or index number (PIN) of the units are the same, containing 250,000 or more gross square feet, as identified by the commissioner.

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"Group 2 covered building" means any building or group of buildings that have the same property identification or index number (PIN) or, with regard to condominium buildings, any building in which the first seven digits of the property identification or index number (PIN) of the units are the same, containing 50,000 or more gross square feet but less than 250,000 gross square feet, as identified by the commissioner.

(Omitted text is not affected by this ordinance)

"Reported benchmarking information" means descriptive information about a building, its operating characteristics, and information generated by the benchmarking tool related to the building's energy consumption, water usage and efficiency, as prescribed by rule. Reported benchmarking information includes, but is not limited to, the building identification number, address, square footage, energy performance score, energy use intensity, and annual greenhouse gas emissions, and water usage.

"Residential occupancy" means any building occupancy use classified as any combination of Class A residential units, as defined by Chapter 13-56.

18-14-101.4 Solicitation of compliance information and water usage data-fa) (1) Within 30 days of a request by the building owner, each tenant of a unit in a covered building shall provide all information that cannot otherwise be acquired by the building owner and that is necessary for the building owner to comply with the requirements of this chapter.

2) Any owner of a covered building shall request such information no later than March 1 of the years in which benchmarking is required by Section 18-14-102.1. If the owner of a covered building receives

notice that a tenant intends to vacate a unit which is subject to the requirements of this subsection, the owner shall request the information specified in this subsection within 10 days of such notice, and the tenant shall provide such information within 30 days of the request.

3) The failure of any tenant to provide the information required under this subsection to the owner of a covered building shall not relieve such owner of the obligation to benchmark the building as provided in Section 18-14-102.1, using all information otherwise available to the owner.

4) Failure of any tenant to provide the information required under this subsection to the owner of a covered building shall create a rebuttable presumption that the owner, tenant, or both have not complied with the time limits specified in this section.

5) If a tenant of a unit in a covered building fails to provide information to the owner of the building as provided in this subsection, the owner shall be considered to be in compliance with Section 18-14-102.1 with respect to the building if: (1) the owner proves that the owner has

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requested the tenant to provide such information as specified in this subsection; and (2) the owner has benchmarked the building as provided in Section 18-14-102.1, using all information otherwise available to the owner.

b) The commissioner of water management may transmit water usage information for covered buildings to the commissioner. Except for covered buildings whose owners submit a request to the commissioner, in a form and manner provided by rule, that the buildings' water usage data not to be made public, the commissioner is authorized to make such water usage information readily available to the public. Notwithstanding any other provision of this Chapter to the contrary, if the commissioner makes a covered building's water usage information readily available to the public as provided in this subsection, the covered building owner may, at the owner's option, decide to include such water usage data in the covered building's benchmark or reported benchmarking information but the covered building owner is not required to do so.

18-14-102.1 Benchmarking.

(Omitted text is not affected by this ordinance)

c) The owner of any covered building shall retain all information tracked and input into the benchmarking tool for a minimum of three years beyond the date on which benchmarking was required.

Exception: The commissioner may exempt from the benchmarking requirement the owner of a covered building that submits documentation, in a form prescribed by rule, establishing any of the following:

i) The building is presently experiencing qualifying financial distress, as defined by any of the following: (1) the building is the subject of a qualified tax lien sale or public auction due to property tax arrearages, (2) the building is controlled by a court appointed receiver, or (3) the building has been acquired by a deed in lieu of foreclosure;

or

ii) The building had average physical occupancy of less than 50 percent throughout the calendar year for which benchmarking is required; or

iii) The building is a new construction and the building's certificate of occupancy was issued during the calendar year for which benchmarking is required, required: or

iv) The building had a change of ownership in the calendar year for which benchmarking is required.

18-14-102.3 Disclosure and rating.

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a) In accordance with the schedule prescribed by Section 18-14-102.1, the owner of any covered building shall submit reported benchmarking information for the previous calendar year, using the benchmarking tool, in a manner prescribed by the commissioner.

b) The commissioner and the chief sustainability officer shall prepare and submit an annual report to the mayor and the city council reviewing and evaluating energy efficiency in covered buildings, including summary statistics on the most recent reported energy benchmarking information and a discussion of energy efficiency trends, cost savings, and job creation effects resulting from energy efficiency improvements.

c) (1) The commissioner shall establish and implement an energy performance rating system that assigns stars to covered buildings based on such buildings' energy performance scores. Beginning in calendar year 2019, the commissioner shall annually, after covered buildings have submitted their reported benchmarking information as provided in 18-14-102.3, assign a rating to each covered building, as follows:

fjQ A rating of four stars shall be assigned to those covered buildings whose energy performance scores are between 81 and 100. inclusive, or whose energy performance scores are between 61 and 80. inclusive, and which have shown a total of 10-point improvement in their energy performance scores in the previous two consecutive calendar years:

ii) A rating of three stars shall be assigned to those covered buildings whose energy performance scores are between 61 and 80. inclusive, or whose energy performance scores are between 41 and 60. inclusive, and which have shown a total of 10-point improvement in their energy performance scores in the previous two consecutive calendar years:

iii) A rating of two stars shall be assigned to those covered buildings whose energy performance scores are between 41 and 60. inclusive, or whose energy performance scores are between 11 and 40. inclusive, and which have shown a total of 10-point improvement in their energy performance scores in the previous two consecutive calendar years:

iv) A rating of one star shall be assigned to those covered buildings whose energy performance scores are below 40: and

(v) A rating of zero star shall be assigned to those covered buildings whose reported benchmarking information is not timely submitted in violation of this Chapter.

(2) In addition to the rating provided in subsection (c)(1) of this Section, the commissioner is authorized to assign an additional rating of half a star to a covered building that has an energy performance score which is close to: (i) the highest possible score: or (ii) the next higher

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rating, as determined by rule promulgated by the commissioner.

(3) No rating shall be assigned to those covered buildings that: (i) are exempt from the benchmarking requirement as provided in 18-14-102.1(c): (ii) do not receive an energy performance score or EUI from the benchmarking tool for technical reasons acceptable to the commissioner: or (iii) are unable to make energy efficiency improvements due to the building's infrastructure limitations or other acceptable technical reasons, as determined by the commissioner after reviewing the application, supporting documentations and other relevant materials submitted by the owner as provided by rule.

4) For buildings with no energy performance scores, the energy performance rating shall be based on EUI as compared to national medians.

5) The commissioner is authorized, by rule, to adjust the energy performance score thresholds for the energy performance rating system in order to ensure the energy performance ratings continue to reflect changing energy efficiency standards and best practices.

d) The commissioner shall provide each covered building with an energy rating card indicating the covered building's current year energy performance rating. Provided, however, no energy rating card shall be provided to covered buildings: (i) that are exempt from public disclosure of reported benchmarking information as provided in 18-14-102.3, (ii) that are exempt from the benchmarking requirement as provided in 18-14-102.1, or (iii) that do not receive an energy performance score or EUI from the benchmarking tool for technical reasons acceptable to the commissioner.

e) Upon receipt of an energy rating card, a covered building shall conspicuously post the energy rating card so that it is visible to the general public and to visitors prior to or upon entering the covered building. The energy rating card shall not be defaced, marred, camouflaged or hidden from public view.

f) £1) A covered building owner, or agent thereof, shall not execute an oral or written lease or purchase agreement, contract to lease or sell, or accept any money or other valuable consideration in an application for an oral or written lease or purchase agreement for the entire building or a portion of the building without disclosing to the tenant, applicant or prospective buyer, in a form and manner prescribed by the commissioner by rule, the covered building's

current calendar year energy performance rating or energy performance score. The tenant, applicant, or prospective buyer shall sign a receipt acknowledging that such tenant, applicant, or prospective buyer has received the disclosure required by this subsection.

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(2) A covered building owner, or agent thereof, shall include a covered building's current calendar year energy performance rating "or energy performance score in any advertisements for sale or lease of the covered building or a portion of the building.

Exception: No disclosure shall be required under this subsection (f) if any portion of the covered building is subject to the utility costs disclosure requirements and exceptions provided in Chapter 5-16 of this Code-Exception: No disclosure shall be required under this subsection (f) if the covered building is exempt from the benchmarking requirement as provided in 18-14-102.1(c).

(g) The commissioner is authorized to make reported benchmarking information and energy performance ratings readily available to the public.

~~Exception: To the extent allowable under~~ Unless a different result is mandated by applicable law, the commissioner shall not make readily available to the public any individually ~~attributable~~ attributable reported benchmarking information from the first calendar year that a covered building is required to benchmark.

Exception: Unless a different result is mandated by applicable law, the commissioner shall not make readily available to the public any individually attributable energy performance rating assigned to a covered building until six months after initial ratings are assigned.

~~Exception: To the extent allowable under~~ Unless a different result is mandated by applicable law, the commissioner shall not make readily available to the public any individually-~~attributable~~ attributable reported benchmarking information or energy performance rating pertaining to a covered building that contains a data center, television studio, or trading floor that together exceed 10 percent of the gross square footage of any such building until the commissioner determines that the benchmarking tool can make adequate adjustments for such facilities. When the commissioner determines that the benchmarking tool can make such adjustments, it shall report such determination to the mayor and the city council.

SECTION 2. This ordinance shall take effect 180 days after its passage and publication.

