**CITY OF SEATTLE**

**ORDINANCE _____**

COUNCIL BILL _____

AN ORDINANCE relating to regulating greenhouse gas emissions in larger existing nonresidential and multifamily buildings; establishing and imposing greenhouse gas emissions intensity targets and reporting requirements; prescribing penalties; adding a new Chapter 22.925 to the Seattle Municipal Code; amending Sections 22.920.010, 22.920.020, 22.920.030, 22.920.120, 22.920.130, 22.920.170, 22.930.010, 22.930.020, 22.930.040, 22.930.050, 22.930.120, 22.930.140, and 22.930.180 of the Seattle Municipal Code; and repealing Section 22.920.040 of the Seattle Municipal Code.

WHEREAS, The Intergovernmental Panel on Climate Change (IPCC) *Sixth Assessment Report: Climate Change 2021* finds that "Global warming of 1.5°C and 2°C will be exceeded during the 21st century unless deep reductions in carbon dioxide ($CO_2$) and other greenhouse gas emissions occur in the coming decades"; and

WHEREAS, Seattle is already experiencing impacts from climate change including more severe and frequent extreme heat and wildfire smoke events, drought, heavy precipitation, sea level rise, and flooding; and

WHEREAS, buildings account for 37 percent of Seattle's core greenhouse gas (GHG) emissions and The City of Seattle ("City") has a goal to reduce building GHG emissions by 39 percent from 2008 levels and reach zero net GHG emissions by 2050; and

WHEREAS, in 2019 the City Council adopted Resolution 31895 committing to creating a Green New Deal for Seattle further calling for Seattle to decarbonize at an accelerated pace while prioritizing investment in communities historically most harmed by economic, racial, and environmental injustice; and

WHEREAS, in 2019 the Washington Legislature enacted the Clean Energy Transformation Act, chapter 19.405 RCW, committing Washington to GHG emissions-neutral electricity by 2030 and 100 percent renewable

or non-emitting electricity by 2045; and

WHEREAS, in 2021 the Washington Legislature enacted the Climate Commitment Act, chapter 70A.65 RCW, progressively lowering caps on carbon emissions for 2030 and 2040 to net-zero carbon emissions by 2050 and covering businesses such as fuel suppliers, natural gas and electric utilities, district thermal energy providers, and other energy providers; and

WHEREAS, in 2019 the Washington Legislature enacted the State Energy Performance Standard, RCW 19.27A.200-240, establishing energy efficiency targets, efficiency reduction planning, and operations and maintenance requirements for large commercial buildings over 50,000 square feet beginning in 2026, as well as an early adoption incentive program; and

WHEREAS, in 2021 the Washington Legislature passed the Clean Buildings Expansion Bill, 19.27A.250 RCW, which requires commercial buildings over 20,000 to 50,000 square feet and multifamily buildings over 20,000 square feet to conduct energy management planning and operations and maintenance programs consistent with the Clean Buildings Performance Standard, and directs the Department of Commerce by 2023 to adopt rules for the requirements beginning in 2027 and by 2030 to adopt rules for performance standards; and

WHEREAS, the Seattle Energy Code improves the energy efficiency and reduces GHG emissions in new construction and substantial alterations of commercial buildings, which includes multifamily buildings over three stories; and

WHEREAS, City departments were directed to develop a Municipal Buildings Decarbonization Strategy that would identify a path for municipal buildings to operate without fossil fuel systems and appliances by 2035; and

WHEREAS, the City finds that establishing GHG emissions reduction targets on large nonresidential and multifamily buildings is projected to reduce GHG emissions from Seattle buildings by 27 percent; and

WHEREAS, building owners may make meaningful reductions in building-related GHG emissions through a

variety and combination of actions such as: employing energy-efficient measures, using less GHG emissions-intensive fuels like electricity, waste heat, renewable natural gas, biofuels, or green hydrogen; and

WHEREAS, decarbonizing Seattle buildings will require an increase in skilled trades, and the elimination of climate pollution from existing nonresidential and multifamily buildings over 20,000 square feet is specifically projected to create 150 to 270 annual jobs or more in clean energy and construction and the City is investing in programs and funding to support a just transition; and

WHEREAS, in 2022 the City established a Seattle Clean Buildings Accelerator support program that provides training and technical support for building owners to improve energy efficiency and reduce climate pollution, with a prioritization on buildings serving people with low or no incomes and communities historically most harmed by economic, racial, and environmental injustice; and

WHEREAS, the 2023 Adopted and 2024 Endorsed Budget includes over $11 million of JumpStart Green New Deal funding to implement a Seattle Building Emissions Performance Standard and to provide technical and financial support for building owners, and the City is pursuing additional funding available through the federal Bipartisan Infrastructure Law and Inflation Reduction Act, state grants, and other sources, for subsidized low-income housing, unsubsidized low-rent housing, nonprofits, and other facilities serving frontline communities; and

WHEREAS, mitigating for climate change and ensuring housing affordability are both necessary for a thriving city and the City already has multiple tenant protection laws to complement this legislation, including the Housing & Building Maintenance Code, Rental Registration & Inspection Ordinance, Just Cause Eviction Ordinance, Rental Agreement Regulation, Economic Displacement Relocation Assistance, and Tenant Relocation Assistance Ordinance; NOW, THEREFORE,

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. A new Chapter 22.925 is added to the Seattle Municipal Code as follows:

## CHAPTER 22.925 BUILDING EMISSIONS PERFORMANCE STANDARD

### 22.925.010 Applicability

A. This Chapter 22.925 applies to all covered buildings not otherwise exempt under subsections 22.925.010.C or 22.925.010.D or elsewhere in this Chapter 22.925.

B. This Chapter 22.925 applies to greenhouse gas emissions from the energy used by covered buildings, including but not limited to: electricity, natural gas, liquified or compressed gas, distillate oil, heating oil, renewable natural gas, hydrogen, and district thermal energy.

C. This Chapter 22.925 does not apply to covered buildings as defined in Section 22.925.020 that are covered entities as defined in RCW 70A.65.010 and subject to a cap on greenhouse gas emissions in RCW 70A.65.060.

D. This Chapter 22.925 does not apply to industrial buildings as defined in Section 22.925.020.

### 22.925.020 Definitions

As used in this Chapter 22.925:

"Alternative compliance payment" or "ACP" means a payment that a building owner pays to the City to comply with this Chapter 22.925 in lieu of meeting GHGITs.

"Alternate GHGIT" means the GHGIT in kgCO2e/SF/yr established from the baseline GHGI of an individual covered building, district campus, connected buildings, or public/nonprofit building portfolio, and calculated according to Section 22.925.080.

"Baseline GHGI" means the GHGI in kgCO2e/SF/yr for a particular 12-month period for a covered building, building portfolio, district campus, or connected buildings used to calculate compliance with certain alternative compliance options.

"Building activity type" means a building or building space type use listed in Table A for 22.925.070 such as office, retail, hotel, or multifamily.

"Building owner" means an individual or entity possessing a fee interest in a covered building. Where a

condominium is subject to this Chapter 22.925, “building owner” means the owners' association, except that, where the powers of an owners’ association are exercised by or delegated to a master association, “building owner” means the master association.

“Building portfolio” means two or more covered buildings on one or more lots, all owned by the same public, private, or nonprofit entity. Building portfolios may include district campuses and/or connected buildings. For the purposes of this definition, a building management company does not constitute an owner.

“Carbon dioxide equivalent” or “CO2e” means the metric used to compute the combined emissions from carbon dioxide (CO2), methane (CH4), and nitrous oxide (N2O) on the basis of their global warming potential.

"Carbon offset” means a reduction or removal of emissions of carbon dioxide or other greenhouse gases made in order to compensate for emissions made elsewhere. Offsets are measured in tons of carbon dioxide equivalent (CO2e).

"Certificate of occupancy" means the certificate issued by the building official after final inspection, allowing the building to be occupied.

“City” means The City of Seattle.

“Compliance GHGI” means the GHGI in kgCO2e/SF/yr for a particular 12-month period for a covered building, building portfolio, district campus, or connected buildings used to show compliance with the GHGIT.

“Condominium” means real property, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions.

“Connected buildings” means two or more covered buildings owned by the same building owner that are situated on the same or adjacent parcels and have shared mechanical or metering equipment such as energy meters, building controls, heating, or ventilation or share a thermal envelope because they are physically connected. Where more than one owner shares mechanical or metering equipment under a joint agreement, one owner shall be deemed the building owner for the purposes of complying with this Chapter 22.925.

“Covered building” means a nonresidential building or multifamily building as defined in this Section 22.925.020.

“Director” means the Director of the Office of Sustainability and Environment or the Director’s designee and includes any person or agency or representative of such person or agency to whom authority is delegated under this Chapter 22.925.

“District campus” means two or more covered buildings on the same or adjacent parcels owned by the same building owner that is served by a campus district heating, cooling, water reuse, and/or power system. Where more than one owner is part of a district campus under a joint agreement, one owner shall be deemed the building owner for the purposes of complying with this Chapter 22.925.

“District campus heating and/or cooling system” means a district heating and/or cooling system that serves a district campus.

“District thermal energy” means thermal energy provided by a district thermal energy provider distributed to two or more buildings through a network of pipes from a central plant or combined heat and power facility for heating or cooling.

"District thermal energy provider" means any private person, company, association, partnership, joint venture, or corporation engaged in producing, transmitting, distributing, delivering, furnishing, or selling thermal energy to buildings owned by a person or entity other than the district thermal energy provider.

“Energy” means electricity, including electricity delivered through the electric grid and electricity generated at the building premises using solar, wind, or other resources; natural gas; combined heat and power; district thermal energy; propane; fuel oil; wood; coal; or other fuels or thermal sources used to meet the energy loads of a building.

"Energy benchmarking" means the assessment of a building's energy use, greenhouse gas emissions, and efficiency as required in Chapter 22.920.

“ENERGY STAR Portfolio Manager” means the tool developed and maintained by the United States

Environmental Protection Agency that enables account holders to track and assess the energy, water, waste, and greenhouse gas emissions performance of their buildings.

"Financial distress" means:

1. A covered building that has had arrears of property taxes or water or wastewater charges that resulted in the building's inclusion, within the prior two years, on a King County annual tax lien sale list;

2. A covered building that has a court-appointed receiver in control of the asset due to financial distress;

3. A covered building that is owned by a financial institution through default by a borrower;

4. A covered building that has been acquired by a deed in lieu of foreclosure within the previous 24 months;

5. A covered building has a senior mortgage subject to a notice of default; or

6. Other conditions determined by rule.

"Greenhouse gas" or "GHG" means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

"Greenhouse gas emissions" or "GHG emissions" means Scope 1 direct emissions from stationary (non-transport) combustion of fossil fuels (e.g., boilers, furnaces, or domestic hot water) serving a building or buildings, and Scope 2 indirect emissions from the purchase of electricity, steam, hot water, or chilled water that are delivered through a grid or district thermal energy source, as defined by the United States Environmental Protection Agency, and are reported as CO2e. "Greenhouse gas emissions" does not include fugitive emissions directly released into the atmosphere from various types of equipment and processes (e.g., refrigerants, industrial gases, fire suppression systems), as defined by the United States Environmental Protection Agency.

"Greenhouse gas emissions factor" or "emissions factor" means the CO2e emissions associated with an energy source and reported in kgCO2e per thousand British thermal units (kgCO2e/kBtu).

"Greenhouse gas emissions intensity" or "GHGI" means a measurement of a covered building's greenhouse gas emissions from its energy use relative to its size. A building's GHGI is the sum of each energy fuel source consumed in one year multiplied by the emissions factor of that fuel, divided by the gross floor area of the building. GHGI is measured as a value of kgCO2e units per square foot per year (kgCO2e/SF/yr).

"Greenhouse gas emissions intensity target" or "GHGIT" means the target that limits a covered building's GHGI under this Chapter 22.925. GHGIT is reported as a value of kgCO2e units per square foot per year (kgCO2e/SF/yr).

"Gross floor area" means the total number of square feet measured between the exterior surfaces of the enclosing fixed walls, including all supporting functions such as offices, lobbies, restrooms, equipment storage areas, mechanical rooms, break rooms, and elevator shafts. Gross floor area excludes parking, outside bays, and docks. The gross floor area of indoor atriums is the base floor area of the indoor portion of the atrium.

"Housing, low-income" means "housing, low-income" as defined in Section 23.84A.016.

"Housing, low-rent" means a multifamily building with the current contract rent and the contract rent for a minimum of ten years after the relevant compliance date in 2031-2035, including an allowance for basic utilities if not included in the contract rent, for over 60 percent of the total residential units is at or below either: (1) 60 percent of median income, or (2) 40 percent of median income for SEDUs. Median income is as published by the Seattle Office of Housing. "Low-rent housing" is not low-income housing.

"Human service use" means "human service use" as defined in Section 23.84A.016.

"Industrial building" means a building that has at least 50 percent of its use classified under Factory Industrial Group F in the Seattle Building Code as manufacturing or light industrial according to the building's Certificate of Occupancy.

"Initial occupancy date" means the date that a certificate of occupancy was first issued for a building. If no certificate of occupancy was issued, it means the date any utility service was first billed for the building.

"Multifamily building" means a building or portion of a building with greater than 20,000 square feet of

gross floor area that is classified under the Seattle Building Code as a Residential Group R-2 or R-3 occupancy. A building is considered multifamily if more than 50 percent of the building is residential use.

"Natural gas" means fossil fuel derived mixtures of hydrocarbon gases and vapors consisting principally of methane, whether in gaseous or liquid form, not including gas that meets the definition of renewable natural gas.

"Net-zero emissions" means that all energy sources used by a covered building have zero GHG emissions, including any carbon offsets purchased and retired by a natural gas utility or district thermal energy provider in accordance with and as authorized under the Climate Commitment Act, chapter 70A.65 RCW; and including any renewable energy credits purchased and retired by an electric utility in accordance with and as authorized under the Clean Energy Transformation Act, chapter 19.405 RCW; and except for certain emissions deductions as may be allowed by rule under Section 22.925.120.

"Nonresidential building" means a building or portion of a building with greater than 20,000 square feet of gross floor area, that is any classified occupancy under the Seattle Building Code other than a building classified as a Factory Industrial Group F-1 or F-2 or as Residential R-2 or R-3. A building is considered nonresidential if more than 50 percent of the building is nonresidential use.

"Normalization factor" means a numerical factor used to adjust the GHGIT of a building activity type to account for hours of operation for nonresidential activity types, or occupancy density for multifamily activity types.

"Notice of violation" or "NOV" means a written notice issued to a building owner for failure to comply with the requirements of this Chapter 22.925 or for making any misrepresentation of any material fact in a document required to be prepared or disclosed by this Chapter 22.925 or rules adopted under it.

"OSE" means the Office of Sustainability and Environment.

"Owners' association" means the entity consisting exclusively of all the unit owners in a condominium. The association may be organized as a profit or nonprofit corporation.

"Public/nonprofit building portfolio" means a building portfolio owned by the same public or nonprofit entity.

"Qualified person" means a person having training, expertise, and at least three years professional experience in building energy use analysis and any of the following certifications or licenses: a licensed professional architect or engineer in the State of Washington; a Building Energy Assessment Professional (BEAP) certified by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE); Certified Energy Auditor (CEA) certified by the Association of Energy Engineers (AEE); Building Operator Certification (BOC) Level II by the Northwest Energy Efficiency Council; a Certified Commissioning Professional (CCP) who is certified by an ANSI/ISO/IEC 17024:2012 accredited organization; a Certified Energy Manager (CEM) in current standing certified by the Association of Energy Engineers (AEE); or an Energy Management Professional (EMP) certified by the Energy Management Association. The Director may prescribe additional certifications and training to meet the minimum qualifications of a qualified person.

"Renewable energy certificate" or "REC" means a tradable certificate of proof of one megawatt-hour of a renewable resource. The certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity. The certificate shall be verified by a renewable energy credit tracking system.

"Renewable natural gas" means a gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, or anaerobic digesters and that is fully interchangeable with conventional natural gas.

"Renewable thermal certificate" means a representation of the environmental attributes associated with the production, transport, and use of one dekatherm of renewable natural gas.

"SEDU" means a "Dwelling unit-small efficiency" as defined in Section 23.84A.008.

"Standard GHGIT" means the calculated GHGIT in kgCO2e/SF/yr for a covered building, building portfolio, district campus, or connected buildings, based on the percent of gross floor area of each building activity type in Table A for 22.925.070 and normalization factors.

"Tenant" means a person occupying or holding possession of a building or premises pursuant to a rental agreement.

"Thermal energy" means heat or cold in the form of steam, heated, or chilled water, or any other heated or chilled fluid or gaseous medium.

"Utility" means an entity that distributes and sells natural gas, electric, or thermal energy services for buildings.

"Weather normalized" means a method for modifying the measured building energy use in a specific weather year to the energy use under typical weather conditions.

**22.925.030 Rulemaking**

The Director may promulgate rules to implement this Chapter 22.925, including but not limited to establishing GHGI calculation procedures, establishing normalization factors, establishing and reporting emissions factors, updating building activity types and associated GHGITs, establishing processes for requesting alternative compliance, extensions and exemptions, establishing reporting formats and processes, revising ACP and penalty amounts, or adjusting building end use deductions.

**22.925.040 Greenhouse gas reductions**

A. Building owners shall reduce the GHGIs of covered buildings to meet their standard GHGITs for each compliance interval, unless approved for alternate GHGI reductions in Section 22.925.100 or an extension or exemption in Section 22.925.110.

B. Once buildings have achieved net-zero emissions, building owners shall maintain covered buildings at net-zero emissions in perpetuity.

C. Building owners shall meet the reporting obligations to the City identified in Section 22.925.090 based on the compliance schedule in Table A for 22.925.060, unless approved for an alternative compliance schedule in Section 22.925.100.

D. A covered building must meet its GHGITs and reporting obligations regardless of any changes in the

ownership of the covered building or any lease agreements established after the effective date of this ordinance.

**22.925.050 Energy and emissions benchmarking verification**

A. By the compliance deadlines in Table A for 22.925.060, building owners shall have a qualified person, other than the person who prepared and submitted the benchmarking report pursuant to Chapter 22.920, verify the accuracy of the covered building's reported ENERGY STAR Portfolio Manager benchmarking data for the previous calendar year, January 1 - December 31.

B. Benchmarking verification shall apply to any benchmarking data used to determine a covered building's compliance GHGIs and baseline GHGI, and for any other reporting obligations calling for verified benchmarking data under this Chapter 22.925 or by rule.

C. If there are errors in previously reported benchmarking data or discrepancies between previously reported data and verified benchmarking data, the qualified person shall correct benchmarking data in ENERGY STAR Portfolio Manager.

**22.925.060 Compliance schedules**

A. Building owners shall meet benchmarking verification and reporting obligations for their covered buildings by October 1 of the compliance year listed in Table A for 22.925.060.

| **Table A for 22.925.060 Covered buildings compliance schedule for benchmarking verification and reporting obligations** | |
|---|---|
| Gross floor area in square feet | Shall meet benchmarking verification and reporting c October 1 of |
| 220,001 or greater | 2027 |
| 90,001-220,000 | 2027 |
| 50,001-90,000 | 2028 |
| 30,001-50,000 | 2029 |
| 20,001-30,000 | 2030 |
| **Building portfolio, district campus and connected buildings compliance schedule** | |
| Building portfolios, district campuses, and connected buildings approved for alternative compliance under Section 22.925.100 | Shall meet benchmarking verification and reporting c October 1 of |

| | |
|---|---|
| | 2028 |

B. Building owners shall meet their GHGITs, benchmarking verification, and reporting obligations for their covered buildings by October 1 of the compliance year for each compliance interval, listed in Table B for 22.925.060, and every five years thereafter.

| **Table B for 22.925.060 Covered buildings[1] compliance schedule for meeting GHGITs, benchmarkin** | | | | |
|---|---|---|---|---|
| Gross floor area in sc | Shall meet GHGIT, benchmarking verification, and reporting obligations by October 1 of | | | |
| 220,001 or greater | 2031 | 2036 | 2041 | 2046 |
| 90,001-220,000 | 2032 | 2037 | 2042 | 2047 |
| 50,001-90,000 | 2033 | 2038 | 2043 | 2048 |
| 30,001-50,000 | 2034 | 2039 | 2044 | 2049 |
| 20,001-30,000 | 2035 | 2040 | 2045 | 2050 |
| **Building portfolios, district campus and connected buildings compliance schedule** | | | | |
| Building portfolios, c campuses, and conne approved for alternat under Section 22.925 | Shall meet GHGIT, benchmarking verification, and reporting obligations by October 1 of | | | |
| | 2033 | 2038 | 2043 | 2048 |
| | | | | |
| Footnote to Table B for 22.925.060 [1] Pursuant to Section 22.925.110, low-income housing, human service but are still required to meet benchmarking verification and all other reporting obligations for 2031-2035. | | | | |

**22.925.070 Greenhouse gas emissions intensity targets**

A. Table A for 22.925.070 establishes GHGITs by building activity type. The Director by rule may revise building activity type GHGITs for 2036-2040 by December 31, 2031, for 2041-2045 by December 31, 2036, and for 2046-2050 by December 31, 2041, based on building performance data, evolving technology, new regulations, public service impacts, or other relevant factors and by rule shall revise the laboratory GHGIT for 2031-2035 by December 31, 2027, for 2036-2040 by December 31, 2031, for 2041-2045 by December 31, 2036, and for 2046-2050 by December 31, 2041, based on further evaluation of the unique characteristics of laboratory spaces, evolving technology, any relevant national standards, and other relevant factors. If a relevant

national laboratory standard has not been developed by December 31, 2027, the laboratory GHGIT may be deferred until the date a national laboratory standard has been developed.

| **Table A for 22.925.070 Building activity type greenhouse gas intensity targets (GHGITs)** | | | | |
|---|---|---|---|---|
| **Building activity typ** | **GHGITs (KGCO2e/SF/YR) by compliance interval** | | | |
| | 2031-2035 | 2036-2040[1] | 2041-2045[1, 2] | 2046-2050[1, 3] |
| College/university | 2.69 | 1.57 | 0.00 | 0.00 |
| Entertainment/public | 1.18 | 0.69 | 0.00 | 0.00 |
| Fire/police station | 2.23 | 1.30 | 0.00 | 0.00 |
| Hospital | 4.68 | 2.73 | 0.00 | 0.00 |
| Hotel | 2.06 | 1.20 | 0.00 | 0.00 |
| K-12 school | 0.95 | 0.56 | 0.00 | 0.00 |
| Laboratory[1] | 6.30 | 3.68 | 0.00 | 0.00 |
| Multifamily housing[3] | 0.89 | 0.63 | 0.37 | 0.00 |
| Non-refrigerated war | 0.77 | 0.45 | 0.00 | 0.00 |
| Office | 0.81 | 0.47 | 0.00 | 0.00 |
| Other | 2.48 | 1.45 | 0.00 | 0.00 |
| Recreation | 3.22 | 1.88 | 0.00 | 0.00 |
| Refrigerated wareho | 0.98 | 0.57 | 0.00 | 0.00 |
| Residence hall/dormi | 1.16 | 0.68 | 0.00 | 0.00 |
| Restaurant | 5.73 | 3.34 | 0.00 | 0.00 |
| Retail Store | 1.03 | 0.60 | 0.00 | 0.00 |
| Self-storage facility | 0.31 | 0.18 | 0.00 | 0.00 |
| Senior living commu | 2.11 | 1.23 | 0.00 | 0.00 |
| Services | 1.36 | 0.79 | 0.00 | 0.00 |
| Supermarket/grocery | 3.42 | 2.00 | 0.00 | 0.00 |
| Worship facility | 1.20 | 0.70 | 0.00 | 0.00 |
| Footnotes to Table A for 22.925.070 [1] Targets may be revised by future rule pursuant to subsection 22.925 emissions by 2046-2050 for multifamily housing. [4] Pursuant to Section 22.925.110, owners of low-income meeting the GHGITs in 2031-2035 but still must meet benchmarking verification and all other reporting ob | | | | |

B. The Director by rule shall establish normalization factors including but not limited to hours of operation and multifamily occupancy density that may be used when calculating the GHGITs for covered buildings.

C. Table B for 22.925.070 establishes the emissions factors for energy sources for calculating baseline GHGI and compliance GHGIs.

| **Table B for 22.925.070 Greenhouse gas emissions factors** | | |
|---|---|---|
| **Energy source** | **Emissions factors (kgCO2e/kBtu)** | |
| | **For baseline GHGI (2019-2028)** | **For compliance GHGI (2031 - 2035) (Provisional)** |
| Seattle City Light electricity | .0058 | .0029 |
| Puget Sound Energy natural gas | .053 | .053 |
| CenTrio district thermal energy | .081 | .081 |

E. The Director by rule shall establish the final emissions factors for energy sources for the 2031-2035 compliance interval by December 31 of 2027 and emissions factors for each subsequent compliance interval by December 31 of 2031, 2036, and 2041. The emissions factors shall remain the same during each five-year compliance interval. Emissions factors shall reflect changes in utility energy mix, regulatory requirements, and emissions factors published by the United States Environmental Protection Agency (EPA).

1. Emissions factors for fossil fuels such as oil and propane shall be the Stationary Combustion Emissions Factors published by the EPA.

2. Emissions factors for natural gas purchased directly by the building owner shall be the Stationary Combustion Emissions Factors published by the EPA.

3. Puget Sound Energy, or another gas provider, shall submit an emissions factor for natural gas, inclusive of any renewable natural gas or other renewable sources if applicable, to the Director with an accompanying report as submitted to the Washington Department of Ecology or Climate Registry.

4. Seattle City Light, or another electricity provider, shall submit an emissions factor for electricity to the Director with an accompanying report as submitted to the Washington Department of Ecology or Climate Registry.

5. District thermal energy provider(s), CenTrio, its successor, or another provider, shall submit an emissions factor for district thermal energy to the Director with an accompanying report as submitted to the Washington Department of Ecology or Climate Registry.

6. The emissions factors for renewable energy such as biodiesel and renewable natural gas, are dependent on the specific supply sources of the renewable energy acquired. Building owners shall provide the Director with an attestation of the renewable energy purchased, verified through M-RETS, Green-e or other renewable energy tracking registry, which specifies the supply source and emissions factor of the renewable energy used. Renewable energy sources, including but not limited to renewable natural gas or biodiesel, used in meeting a covered building's GHGIT shall retain their environmental attributes and shall not be double counted or disaggregated. Renewable thermal certificates, carbon offsets, and renewable energy certificates may not be used to meet a covered building's compliance obligation.

**22.925.080 Building greenhouse gas emissions calculations**

A. Building owners shall use the following procedures to establish a covered building's standard GHGIT for each compliance interval:

1. For the 2031-2035 compliance intervals, building owners shall use Table A for 22.925.070 to determine the standard GHGIT based on the building activity type(s) of the covered building.

2. For the 2036-2040, 2041-2045, and 2046-2050 compliance intervals, building owners shall use the building activity type GHGITs established by rule to determine the standard GHGIT based on the building activity type(s) of the covered building.

3. Building owners of covered buildings with more than one building activity type shall prorate the standard GHGIT based on the percent of gross floor area of each building activity type.

4. Normalization factors established by rule may be used to adjust the GHGIT for activity types where appropriate.

B. Building owners shall use the following procedures and formulas to determine a covered building's compliance GHGI for each compliance interval:

1. The compliance GHGI for covered buildings is the sum of all GHG emissions from the building(s) minus the sum of allowed GHG emissions deductions, divided by the gross floor area of the covered

building(s).

Compliance GHGI = GHG emissions (CO2e/yr) - GHG deductions (CO2e/yr) / gross floor area (square feet)

a. GHG emissions are the sum of the annual weather-normalized energy use of each energy source reported in ENERGY STAR Portfolio Manager in kBtu multiplied by the emissions factor for each energy source in kgCO2e/kBtu.

GHG emissions (CO2e/yr) = [energy use A (kBtu/yr) A * emissions factor A (CO2e/kBtu)] + [energy use B (kBtu/yr) * emissions factor B (CO2e/kBtu)] + [energy use C (kBtu/yr) * emissions factor C (CO2e/kBtu)]

b. GHG emissions deductions are the sum of the annual GHG emissions of the specific end uses listed in Section 22.925.120.

2. To calculate a covered building's compliance GHGI, building owners shall use verified energy benchmarking data. Building owners may use either:

a. Twelve consecutive months of verified energy benchmarking data from the time period preceding the covered building's GHGIT compliance deadline. The 12-month period may run from January 1-December 31 or from July 1-June 30; or

b. The annual average of 24 consecutive months of verified energy benchmarking data from the time period preceding the covered building's GHGIT compliance deadline. The 24-month period may run from January 1-December 31 or from July 1-June 30.

C. The Director by rule shall establish the years and particular 12-month period(s) allowed for baseline GHGIs used in alternative compliance calculations for covered buildings.

D. Building owners with covered buildings approved to use alternate GHGITs shall use the following formulas to calculate the alternate GHGITs for each compliance interval:

1. A nonresidential building's alternate GHGITs for their compliance deadline in each

compliance interval shall be calculated as follows. Net-zero emissions shall be achieved by the compliance deadline in the 2041-2045 compliance interval.

a. Sixty-six percent of the baseline GHGI for the 2031-2035 compliance interval.

Alternate GHGIT (CO2e/SF/yr) = baseline GHGI (CO2e/SF/yr) * .66

b. Thirty-three percent of the baseline GHGI for the 2036-2040 compliance interval.

Alternate GHGIT (CO2e/SF/yr) = baseline GHGI (CO2e/SF/yr) * .33

2. A multifamily building's alternate GHGITs for their compliance deadline in each compliance interval shall be calculated as follows. Net-zero emissions shall be achieved by the compliance deadline in the 2046-2050 compliance interval.

a. Seventy-five percent of the baseline GHGI for the 2031-2035 compliance interval.

Alternate GHGIT (CO2e/SF/yr) = baseline GHGI (CO2e/SF/yr) * .75

b. Fifty percent of the baseline GHGI for the 2036-2040 compliance interval.

Alternate GHGIT (CO2e/SF/yr) = baseline GHGI (CO2e/SF/yr) * .50

c. Twenty-five percent of the baseline GHGI for the 2041-2045 compliance interval.

Alternate GHGIT (CO2e/SF/yr) = baseline GHGI (CO2e/SF/yr) * .25

**22.925.090 Reporting obligations**

Building owners shall meet the following reporting obligations by the compliance deadlines in Table A and Table B for 22.925.060, unless approved for an alternative compliance schedule in Section 22.925.100.

A. Building owners shall submit to the Director an energy benchmarking verification report from a qualified person documenting that the covered building's reported ENERGY STAR Portfolio Manager benchmarking data for the previous calendar year, January 1 - December 31, and for any other time period used to comply with this Chapter 22.925, is accurate.

B. Building owners shall submit to the Director a Seattle greenhouse gas emissions standard report, completed by a qualified person. The report shall be in a form developed by the Director and contain all of the

following:

1. The GHGIT and the compliance GHGI for that compliance interval;

2. A description and documentation of the actions completed to meet the GHGITs;

3. Documentation for any approved alternative compliance option used, including baseline GHGIs and alternate GHGITs, and the list of individual buildings in a building portfolio, district campus, or connected buildings that are included in any aggregate or alternate GHGIT calculations;

4. Documentation for any approved extensions or exemptions;

5. Documentation of any end-use deductions allowed and used for calculating the compliance GHGIs;

6. A list of major building mechanical equipment, such as equipment used for space heating and cooling, water heating, cooking, and other activities and their age and fuel sources;

7. An outline of the actions needed for the building to meet subsequent GHGITs; and

8. Any additional information required by the Director.

C. The Director shall review and confirm that the greenhouse gas emissions standard report contains accurate information for all items required in subsection 22.925.090.B.

**22.925.100 Alternative compliance**

Building owners may apply for the following alternative compliance options, in lieu of meeting standard GHGITs, in one or more compliance intervals.

A. ACP. Building owners may meet up to 100 percent of a covered building's emissions reductions required to meet the GHGIT for the 2031-2035 compliance interval with an ACP.

1. The ACP shall be the greater of:

a. $1,250 for covered buildings with a gross floor area of 50,000 square feet or less or $2,500 for covered buildings with a gross floor area greater than 50,000 square feet; or

b. The total annual metric tons (MT) of CO2e a covered building, building portfolio,

district campus or connected buildings exceeds the annual MTCO2e the building would have achieved meeting its GHGIT for the compliance year multiplied by the five years in the compliance interval and multiplied by the MTCO2e cost.

ACP = total annual MTCO2e/yr * 5 * cost of MTCO2e ($/MTCO2e)

total annual MTCO2e = [compliance GHGI (kgCO2e/SF/yr) - GHGIT (kgCO2e/SF/yr)] * gross floor area /1000

2. The cost of each MTCO2e shall be $190 per MTCO2e for the 2031-2035 compliance interval, except that the ACP shall not exceed the penalty amount for the same compliance interval. No later than December 31, 2027, the Director by rule may raise the dollar amount per MTCO2e for the 2031-2035 compliance interval to adjust for inflation and to account for adjustments to the social cost of carbon by a relevant government agency.

B. Aggregate standard GHGIT. Building owners with a building portfolio, district campus, or connected buildings may use an aggregate standard GHGIT for the covered buildings within the building portfolio, district campus, or connected buildings using the calculations in Section 22.925.080. When a building portfolio, district campus, or connected buildings includes a landmark building(s) or building(s) within a historic district approved for a decarbonization compliance plan under subsection 22.925.100.E.2.b, the building(s) may be excluded from the portfolio, district campus or connected buildings for the purposes of calculating the aggregate standard GHGIT.

C. Alternate GHGIT. Building owners of covered buildings that meet one of the following criteria may use alternate GHGITs for each compliance interval, calculated according to Section 22.925.080. A building owner shall apply for and receive approval for alternate GHGITs before the covered building’s first compliance deadline and shall use the approved alternate GHGITs for each subsequent compliance interval. A building owner may apply to amend the alternate GHGIT or baseline GHGI when one or more of the metrics used to calculate the alternate GHGIT or baseline GHGI have changed.

1. District campus, connected buildings, or public/nonprofit building portfolio.

2. A nonresidential building with more than 50 percent of the covered building with the building activity type of "Other" or of a type not covered in Table A for 22.925.070.

3. A covered building that has a baseline GHGI greater than three and one-half-times the covered building's standard GHGIT for the 2031-2035 compliance interval.

Baseline GHGI (CO2e/SF/yr) > 3.5 * standard GHGIT (CO2e/SF/yr)

D. Prescriptive options. A building owner may utilize one or more prescriptive options for a multifamily building in lieu of meeting its GHGIT during the 2031-2035, 2036-2040, or 2041-2045 compliance intervals. Each prescriptive option shall only be used for one compliance interval. Prescriptive options include:

1. Replacing existing fossil fuel combustion service hot water system(s) with electric heat pump water heating (HPWH) system(s) in compliance with the current Seattle Energy Code, including all systems serving the residential units and residential common areas. In residential condominium buildings, only the mechanical systems, equipment, and appliances serving common areas and/or multiple residential units need to be replaced.

2. Replacing existing fossil fuel combustion HVAC heating system equipment with electric heat pump systems or in-unit electric resistance in compliance with the current Seattle Energy Code, including all equipment serving the residential units and residential common areas. In residential condominium buildings, only the systems serving common areas and/or multiple residential units need to be replaced.

E. Decarbonization compliance plan. Building owners with extenuating circumstances that make complying with the compliance schedule or meeting the GHGITs a significant hardship for an individual building may apply to use a decarbonization compliance plan for achieving net-zero greenhouse gas emissions or an approved low emissions GHGIT by 2041-2050. The public owner of a building portfolio whose primary purpose is to provide education at no cost and who is funded through state and local taxes may apply to use a decarbonization compliance plan covering multiple buildings within the owner's building portfolio.

1. Extenuating circumstances for which an owner can use a decarbonization compliance plan for an individual building to achieve net-zero greenhouse gas emissions by 2041-2050 include:

a. When a substantial alteration under Section 307 of the Seattle Existing Building Code will be undertaken concurrently with building upgrades necessary to meet a covered building's GHGIT.

b. When seismic upgrades for a covered building with unreinforced masonry will be undertaken concurrently with building upgrades necessary to meet the covered building's GHGIT.

c. When building upgrades necessary to meet the GHGIT include the installation of significant electrical infrastructure upgrades to increase electric capacity in the building, such as adding a new transformer vault.

d. When building upgrades necessary to meet the GHGIT would require the replacement of HVAC heating system equipment or service hot water equipment already vested under the Seattle Energy Code by the effective date of this ordinance and that equipment has not yet reached a defined percentage of life expectancy. Standardized equipment life expectancy and defined percentage of life expectancy shall be established by rule.

e. When the building upgrades necessary to meet the GHGIT would require access to a laboratory, or an in-patient or emergency healthcare facility, that must maintain non-interruptible operations.

f. When the owner of a covered building has a tenant lease in place before the effective date of this ordinance that specifically precludes owner access to equipment on which work would be required to meet the GHGIT. This extenuating circumstance is only available for the 2031-2035 compliance interval.

g. When there are no practicable low and zero GHG emissions alternatives available on the market for a necessary function.

2. Extenuating circumstances for which an owner can use a decarbonization compliance plan for an individual building to achieve an approved low emissions GHGIT by 2041-2050 include:

a. When upgrades necessary to meet net-zero emissions in a low-income housing

multifamily building are infeasible.

b. When building upgrades necessary to meet net-zero emissions would adversely affect the special features or characteristics of a landmark identified in the designating ordinance or designation report, or would compromise the historic integrity of a building within a historic district, as determined by either the City's Historic Preservation Officer, or historic board or commission, whichever has authority to grant or deny a Certificate of Approval for the building upgrades.

c. When structural or electrical capacity upgrades necessary to meet net-zero emissions are infeasible due to distinct technical and/or physical limitations of the covered building.

d. When a cost analysis of the measures necessary to meet net-zero emissions and a property valuation or other business financial analysis, whose content shall be determined by rule, can demonstrate that the incremental cost of meeting net-zero would create financial distress to the building.

e. When there are no practicable zero GHG emissions alternatives available on the market for a necessary function.

3. Decarbonization compliance plans shall be completed by a qualified person and shall be updated and submitted prior to each compliance interval.

4. Decarbonization compliance plans shall be resubmitted for reapproval by OSE to reflect any changes in building use, major tenants, or management, or other circumstances that may impact compliance.

5. If the building ownership changes, the plan must be resubmitted to the Director by the new owner for approval.

6. Decarbonization compliance plans must include the following:

a. A building energy and greenhouse gas emissions audit and an analysis of energy efficiency and greenhouse gas emissions reduction actions.

b. Incremental GHGITs and the final GHGIT for the building, and energy efficiency and/or greenhouse gas reduction measures that will be taken for each compliance interval.

c. Any additional content specified by decarbonization plan provisions in the Seattle Energy Code.

d. A cost analysis for achieving the incremental and final GHGITs for each compliance interval covered by the plan. The cost analysis shall be in a form developed by the Director by rule and shall include, at a minimum, the incremental cost of any equipment or other upgrades needed to meet the GHGIT above standard asset replacement costs or business-as-usual conditions. The analysis must include the social cost of carbon, utility cost savings, available grants, incentives, tax deductions or other financial incentives, and any additional information required by the Director.

e. Any additional information required by the Director to demonstrate the building meets one of the extenuating circumstances in subsections 22.925.100.E.1 and 22.925.100.E.2.

F. District campus decarbonization compliance plan. A district campus that can demonstrate through a campus decarbonization compliance plan that upgrades to the district campus plant will generate cumulative emissions reductions from 2028 - 2050 that are equal to or greater than the cumulative emissions reductions that would be achieved by meeting standard or alternate GHGITs may submit a campus decarbonization compliance plan to OSE for approval. The plan content and form shall be specified by rule, but shall at a minimum meet the decarbonization compliance plan standards under subsection 22.925.100.E.6.

**22.925.110 Extensions and exemptions**

A. Building owners with covered buildings with one or more of the following conditions may apply for an extension from meeting GHGITs, benchmarking verification, and/or reporting requirements for one or more compliance intervals.

1. A newly constructed covered building that receives a certificate of occupancy less than three years before its compliance date may receive an extension for one compliance interval from meeting the requirements of this Chapter 22.925.

2. Covered buildings under pre-existing financial distress at their compliance date may receive

an extension from meeting the requirements of this Chapter 22.925 for each compliance interval they remain under financial distress.

3. A covered building with a high rental vacancy rate, as determined by rule, during a consecutive 12-month period within the 36-months preceding the relevant compliance date may receive an extension from meeting the GHGIT for one compliance interval. Building owners must still meet benchmarking verification and all reporting obligations.

4. Low-income housing and covered buildings with more than 50 percent of the building occupied by human service uses may receive an extension from meeting the GHGITs in the 2031-2035 compliance interval. Building owners must meet benchmarking verification and all reporting obligations for the 2031-2035 compliance interval and must meet the GHGITs for all subsequent compliance intervals.

5. Low-income housing may receive an extension from meeting the GHGITs in the 2036-2040 compliance interval when a pre-established refinancing date would not occur until after the covered building's compliance deadline in 2036-2040. Building owners must meet benchmarking verification and all reporting obligations for the 2036-2040 compliance interval and must meet the GHGITs for all subsequent compliance intervals.

6. Low-rent housing may receive an extension from meeting the GHGITs in the 2031-2035 compliance interval. Building owners must meet benchmarking verification and all reporting obligations for the 2031-2035 compliance interval and must meet the GHGITs for all subsequent compliance intervals.

B. Building owners with covered buildings with one or more of the following conditions may apply for an exemption from meeting GHGITs, benchmarking verification, and/or reporting requirements for one or more compliance intervals.

1. A covered building that has extremely low emissions due to using only electric energy may be exempt from meeting the GHGITs and from submitting a greenhouse gas emissions standard report for all compliance intervals but must meet benchmarking verification and reporting requirements for each compliance

interval. Residential condominiums may meet this exemption when all space and water heating systems, and other equipment and appliances, under common ownership use only electric energy sources.

2. A covered building scheduled to be demolished within three years of a compliance deadline for any compliance interval may be exempt from meeting all requirements of this Chapter 22.925. If the covered building is not demolished within three years of the exemption approval, the building owner shall comply with all subsequent requirements of this Chapter 22.925.

**22.925.120 End use deductions**

Building owners may deduct the sum of the annual GHG emissions from the following end uses from their compliance GHGI, for one or more compliance intervals.

A. Fossil fuel cooking equipment. This deduction may only be used for the 2031-2035 and 2036-2040 compliance intervals.

B. Fossil fuel high intensity process equipment used in hospitals and laboratories, and fossil fuel high intensity laundry equipment used in hotels and healthcare. This deduction may only be used for the 2031-2035 and 2036-2040 compliance intervals.

C. Fossil fuel equipment located within an individually owned residential unit within a multifamily condominium building.

D. Electric vehicle charging equipment that transfers electricity to batteries or other energy storage devices in electric vehicles or for electric loads related to broadcast antennas, on-site cell phone towers or other communications equipment that is unrelated to the primary purpose of the building.

E. Fossil fuel generators used exclusively for emergency power back-up power or fossil-fuel equipment used for back-up emergency heat in hospitals and laboratories.

F. Emissions from district energy steam, hot water and/or chilled water provided by a private district energy provider. This deduction may only be used: (1) for the 2031-2035 compliance interval, and (2) if the building owner has a contract for district thermal energy with a private district energy provider that was

established prior to June 1, 2024, where a breach of contract would impose a financial penalty on the building owner.

G. The Director by rule may add end uses for highly specialized equipment and add compliance intervals for which the end use deduction applies based on technological and market availability of low and zero GHG emissions alternatives.

**22.925.130 General provisions**

A. OSE shall provide compliance support to owners and tenants of covered buildings including, but not limited to, outreach and informational materials, phone and email consultations, tools to support understanding and calculating GHGIs and GHGITs, and periodic training and informational workshops.

B. Unless otherwise restricted by state or City regulations, tenants shall allow building owners access to mechanical systems and utility information as necessary to comply with the terms of this Chapter 22.925.

C. OSE shall annually publish data on compliance status, and energy and emissions performance.

D. Beginning in 2026, available data related to the implementation and impact of the Building Emissions Performance Standard, as well as overall building performance, shall be incorporated into OSE climate reporting and performance monitoring, such as the biennial GHG Inventory and the Climate Portal.

E. By December 31, 2031, and every five years thereafter, OSE shall provide a report to the Mayor and City Council on implementation of the Building Emissions Performance Standard established under this Chapter 22.925, including compliance rates, total emissions reductions, the impact of the policy on achieving Seattle's climate goals, building upgrade actions and costs, an overview of technical and financial support provided for covered buildings, as well as other information relevant to implementation of this Standard such as evolving technology, climate science and impacts, and/or market conditions. By December 31, 2033, OSE shall conduct a preliminary assessment of emissions reductions and compliance rates, including percentages complying early and/or utilizing alternative compliance options.

**22.925.140 Revenue expenditures**

A. Revenue collected under Chapter 22.920, this Chapter 22.925, and Chapter 22.930 from fines, fees, and alternative compliance payments shall be spent on programs and activities to reduce greenhouse gas emissions from nonresidential, multifamily, and single family buildings, including technical and financial assistance to building owners and tenants with at least 40 percent of the revenue collected prioritized towards buildings serving people with low or no incomes and communities historically most harmed by economic, racial, and environmental injustice.

B. The City shall establish an early adopter incentive program providing incentives and technical assistance.

**22.925.150 Violations**

It is a violation of this Chapter 22.925 for any person or entity to fail to comply with its requirements or misrepresent any material fact in a document required to be prepared or disclosed by this Chapter 22.925 or rules adopted under it.

**22.925.160 Authority to enforce**

A. The Director may enforce this Chapter 22.925.

B. This Chapter 22.925 shall be enforced for the benefit of the health, safety, and welfare of the general public, and not for the benefit of any particular person or class of persons.

C. It is the intent of this Chapter 22.925 to place the obligation of complying with its requirements upon the building owners.

D. No provision or term used in this Chapter 22.925 is intended to impose any duty upon the City or any of its officers or employees that would subject them to damages in a civil action.

E. The Director may delegate the enforcement of any provision of this Chapter 22.925, including but not limited to the authority to investigate and determine if any building owner subject to this Chapter 22.925 has not complied with its requirements, to issue notices of violation, and to collect assessed fines.

**22.925.170 Investigating violations and issuing notices of violation**

A. The Director is authorized to investigate and determine if any building owner, tenant, or other person has complied or not complied with the requirements of this Chapter 22.925.

B. If after investigation, the Director determines that the requirements of this Chapter 22.925 have been violated, the Director may issue a notice of violation to the building owner, tenant or other person subject to this Chapter 22.925.

C. The notice of violation shall state separately each requirement that was violated, state what corrective action is necessary to comply with the requirements, set a reasonable time for compliance, and state any penalties or fines imposed.

D. The notice of violation shall be served on the building owner, tenant, or other person subject to this Chapter 22.925 in the manner set forth in RCW 4.28.080 for service of a summons or sent by first class mail, addressed to the last known address of such person(s). Service shall be complete at the time of personal service, or, if mailed, three days following the date of mailing.

E. If any building owner, tenant, or other person fails to correct the violation, a copy of the notice of violation may be filed with the King County Recorder’s Office.

F. Nothing in this Section 22.925.170 shall be deemed to limit or preclude any action or proceeding to enforce this Chapter 22.925, nor does anything in Section 22.925.170 obligate the Director to issue a notice of violation prior to initiating a civil enforcement action.

**22.925.180 Penalties**

A. Penalties for the failure of a building owner to comply with this Chapter 22.925 shall be imposed as follows for each five-year interval pursuant to the compliance schedule in Section 22.925.060.

1. Fines for the failure of a building owner to comply with the reporting obligations of Section 22.925.090 shall be imposed 360 days after the due date for the failure to submit the reports; however, no fine shall be imposed when a building owner cannot comply with the reporting obligations due to a tenant's failure to provide information required under Section 22.925.130:

a. For covered buildings with gross floor area greater than 50,000 square feet a fine of $15,000 shall be imposed.

b. For covered buildings with gross floor area equal to or fewer than 50,000 square feet, a fine of $7,500 shall be imposed.

2. If the Director determines that a building owner has submitted an inaccurate report as required by Section 22.925.090, the Director may seek the following remedies, in addition to any other remedies authorized by law or equity:

a. For covered buildings with gross floor area greater than 50,000 square feet, a $15,000 fine shall be imposed.

b. For covered buildings with gross floor area equal to or fewer than 50,000 square feet, a $7,500 fine shall be imposed.

3. Fines for the failure of a building owner to demonstrate that they have met the GHGITs as required by Section 22.925.070, or complied with an alternative compliance option, shall be imposed 360 days after the compliance date for each compliance interval listed in Section 22.925.060. A fine of $10 per square foot for nonresidential buildings, $7.50 per square foot for multifamily buildings, and $2.50 per square foot for low-income housing or low-rent housing shall be based on the gross floor area reported by the building owner for the covered building's most current verified energy benchmarking report. If a verified benchmarking report has not been submitted to the City, the fine shall be based on the covered building's gross square feet listed in the King County Assessor's property detail record. Owners of covered buildings using the building portfolio, district campus, or connected buildings reporting options will be assessed a fine based on the total gross floor area of all buildings greater than 20,000 square feet in the building portfolio, district campus, or connected buildings, and prorated by square foot if there are multiple owners of a district campus or connected buildings.

4. When an owner has achieved a GHGI that is no more than 120 percent of the GHGIT, the Director may adjust the fine amount imposed through the appeal process on the building owner in consideration

of the proportional impact on the building's compliance GHGI.

5. When the owner is a public entity funded through state and/or local taxes the Director may consider adjustments to the fine amount imposed on the building owner through the appeal process in consideration of any potential conflicting impacts related to climate change and delivery of public services.

6. When failure to meet the required GHGITs is due to a tenant's failure to provide access to mechanical systems as required under Section 22.925.130, the Director may adjust the fine amount imposed on the building owner considering the proportional impact on the building's compliance GHGI.

B. If the Director determines that a tenant has failed to allow access to mechanical systems or provide utility information to a building owner as required under Section 22.925.130, the Director may, in addition to any other remedy authorized by law or equity, impose a fine on the tenant as follows. For tenant spaces with a gross floor area:

1. Greater than 20,000 square feet, a fine of $2.50 per square foot for low-income housing or low-rent housing, $7.50 per square foot for a multifamily building activity type that is not low-income housing or low-rent housing, and $10 per square foot for all other building activity types, shall be imposed.

2. Greater than or equal to 5,000 square feet but not more than 20,000 square feet, a fine of $2,500 shall be imposed.

3. Less than 5,000 square feet, a fine of $500 shall be imposed.

C. The Director may establish grace periods for imposing fines for any class of structure upon a finding that such grace period will facilitate the submission of reports, accurate reporting, compliance with greenhouse gas emissions reduction requirements, or otherwise further the purposes of this Chapter 22.925.

D. The Director by rule may raise penalty amounts to adjust for compliance rates, inflation or other relevant market conditions. Penalty amounts may not be adjusted for compliance intervals before 2036.

E. The Director by rule shall establish revised penalty amounts by October 1, 2034, for compliance from 2036 to 2040, and every five years thereafter for subsequent compliance intervals.

**22.925.190 Response to notice of violations**

A. A building owner, tenant, or other person who receives a notice of violation must respond by:

1. Paying the amount of the penalty specified in the notice of violation, in which case the record shall show a finding that the person cited committed the violation; or

2. Requesting in writing, via email or U.S. mail, an administrative review in accordance with Section 22.925.200 and providing an email address and/or physical mailing address to which a building emissions performance standard violation appeal form may be sent if completing an online emissions performance standard violation appeal form is not possible or preferred.

B. A response to a notice of violation must be received by the Director no later than 30 days after the date that service of the notice of violation is complete. When the last day of the administrative review appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until 5 p.m. on the next business day.

C. If there is no response to a notice of violation, the Director shall enter an order finding that the person or entity committed the violation stated in the notice of violation and assessing the penalty specified in the notice of violation.

**22.925.200 Director's administrative review of notice of violation**

A. A notice of violation shall be subject to administrative review if the aggrieved party requests in writing a review by the Director within 30 days after service of the notice of violation. When the last day of the review period is a Saturday, Sunday, or federal or City holiday, the period shall run until 5 p.m. on the next business day.

B. To be considered by the Director, the written request for review must be submitted with the building emissions performance standard violation appeal form, which must document the reason for the review.

C. After receiving a request for review, the Director shall notify the requesting party, the building owner who was issued a notice of violation, and any person who requested notice of the review that a request for

review has been received.

D. The Director shall review the basis for issuing the notice of violation and the building emissions performance standard violation appeal form. The Director may request clarification of information received, or may request more information from either the requesting party or the department. After the review is completed, the Director may sustain, withdraw, modify, or amend the notice of violation, or continue the review to a date certain for receipt of additional information.

E. The Director's administrative review decision is final. An aggrieved party may submit a request for a mitigation hearing or a contested hearing before the Hearing Examiner in accordance with Sections 22.925.230 and 22.925.240.

F. The Director by rule may establish grace periods for submitting an NOV appeal for administrative review.

**22.925.210 Failure to respond to an administrative review decision**

If a building owner, tenant, or other person who received a notice of violation fails to respond to an administrative review decision within 15 days of service, the Director shall enter an order finding that the person or entity committed the violation stated in the notice of violation and assessing the penalty specified in the notice of violation.

**22.925.220 Response to an administrative review decision**

A. A building owner, tenant, or other notice of violation recipient must respond to an administrative review decision by:

1. Paying the amount of the penalty specified in the notice of violation, in which case the record shall show a finding that the violation was committed;

2. Requesting in writing a mitigation hearing to explain the circumstances surrounding the commission of the violation and providing a mailing address to which notice of such hearing may be sent; or

3. Requesting in writing a contested hearing and such request shall include the reason why the

cited violation did not occur or why the party who received a notice of violation is not responsible for the violation, and a mailing address to which notice of such hearing may be sent.

B. A response to an administrative review decision must be received by the Office of the Hearing Examiner no later than 15 days after the date the administrative review decision is served. When the last day of the appeal period so computed is a Saturday, Sunday, or federal or City holiday, the period shall run until 5 p.m. on the next business day.

**22.925.230 Administrative review decision mitigation hearings**

A. Date and notice. If there is a request for a mitigation hearing, the mitigation hearing shall be held within 30 days after a written response to the administrative review decision requesting a hearing is received by the Hearing Examiner. Notice of the time, place, and date of the hearing will be sent in accordance with Section 3.02.090 not less than ten days prior to the hearing date.

B. Procedure at hearing. The Hearing Examiner shall hold an informal hearing which shall not be governed by the Rules of Evidence. The aggrieved party may present witnesses; however, witnesses may not be compelled to attend. The Director's representative may also be present and may present additional information; however, attendance by a representative from the City or the Director is not required.

C. Disposition. The Hearing Examiner shall determine whether the aggrieved party's explanation justifies reduction of the penalty; however, the penalty may not be reduced unless the Director affirms or certifies that the violation has been corrected prior to the mitigation hearing. Factors that may be considered in whether to reduce the penalty include but are not limited to the following: whether the violation was caused by the act, neglect, or abuse of another; whether correction of the violation was commenced promptly prior to notice of violation; or whether full compliance was prevented by a condition or circumstance beyond the control of the party receiving the notice of violation.

**22.925.240 Contested hearings**

A. Date and notice. If a building owner, tenant, or other party who received a notice of violation,

requests a contested hearing, the hearing shall be held within 60 days after the Hearing Examiner has received a written response to the administrative review decision requesting such hearing.

B. Hearing. Contested hearings shall be conducted pursuant to the procedures for hearing contested cases contained in Section 3.02.090 and the rules adopted by the Hearing Examiner for hearing contested cases, except as modified by this Section 22.925.240. The issues heard at the hearing shall be limited to those that are raised in writing in the response to the notice of violation and that are within the jurisdiction of the Hearing Examiner. The Hearing Examiner may issue subpoenas for the attendance of witnesses and the production of documents.

C. Sufficiency. No notice of violation shall be deemed insufficient for failure to contain a detailed statement of the facts constituting the specific violation which the party is alleged to have committed or by reason of defects or imperfections, provided such lack of detail, or defects or imperfections do not prejudice substantial rights of the party receiving the notice of violation.

D. Amendment of notice of violation. A notice of violation may be amended prior to the conclusion of the hearing to conform to the evidence presented if substantial rights of the recipient are not prejudiced.

E. Evidence at hearing

1. The certified statement or declaration authorized by RCW 5.50.050 submitted by the Director shall be prima facie evidence that a violation occurred, and that the party is responsible. The certified statement or declaration of the Director authorized under RCW 5.50.050 and any other evidence accompanying the report shall be admissible without further evidentiary foundation.

2. Any certifications or declarations authorized under RCW 5.50.050 shall also be admissible without further evidentiary foundation. The party may rebut the evidence and establish that the violation(s) did not occur or that the party contesting the notice of violation is not responsible for the violation.

F. Disposition. If the notice of violation is sustained at the hearing, the Hearing Examiner shall enter an order finding that the person committed the violation. If the violation remains uncorrected, the Hearing

Examiner shall impose the applicable penalty. The Hearing Examiner may reduce the monetary penalty in accordance with the mitigation provisions in Section 22.925.230 if the violation has been corrected. If the Hearing Examiner determines that the violation did not occur, the Hearing Examiner shall enter an order dismissing the notice of violation.

G. Appeal. The Hearing Examiner's decision is the final decision of the City. Any judicial review must be commenced by applying for a writ of review in the King County Superior Court within 14 days from the date of the decision in accordance with the procedure set forth in chapter 7.16 RCW, other applicable law, and court rules.

**22.925.250 Failure to appear for notice of violation hearing**

Failure to appear for a requested hearing will result in an order being entered finding that the party committed the violation stated in the notice of violation and assessing the penalty specified in the notice of violation. For good cause shown and upon terms the Hearing Examiner deems just, the Hearing Examiner may set aside an order entered upon a failure to appear.

**22.925.260 Collection of notice of violation penalties**

If the notice of violation recipient fails to pay a penalty imposed pursuant to this Chapter 22.925, the penalty may be referred to a collection agency. The cost to the City for the collection services will be assessed as costs, at the rate agreed to between the City and the collection agency, and added to the penalty. Alternatively, the City may pursue collection in any other manner allowed by law.

**22.925.270 Referral to City Attorney for enforcement**

If a building owner fails to correct a violation or pay a penalty, the Director shall refer the matter to the City Attorney's Office for civil enforcement action. Civil actions to enforce a violation of this Chapter 22.925 shall be brought exclusively in Seattle Municipal Court.

**22.925.280 Appeal to Superior Court**

Because civil enforcement actions under this Chapter 22.925 are brought exclusively in Municipal Court,

notices of violations are not subject to judicial review under chapter 36.70C RCW. Final decisions of the Municipal Court may be appealed under the Rules for Appeal of Decisions of Courts of Limited Jurisdiction.

Section 2. Section 22.920.010 of the Seattle Municipal Code, last amended by Ordinance 123993, is amended as follows:

**22.920.010 Applicability**

A. This ((~~chapter~~)) Chapter 22.920 applies to all nonresidential and multi-family benchmarking buildings as defined in the following table:

| Description | | Reporting ((~~Requirements~~)) requirements |
|---|---|---|
| 1. A structure or any portion of a structure (( ~~which~~)) that: | | Nonresidential benchmarking |
| | ((~~a) Is subject to the prov the Seattle Building Cod~~ | |
| | a) ((~~b~~))) Has a gross floo more than 20,000 square ~~excluding~~)) (gross floor a excludes parking), and | |
| | b) ((~~c~~))) Is any classified occupancy under the Sea Building Code other than Residential R-2 or R-3. | |
| 2. A structure or any portion of a structure (( ~~which~~)) that: | | Multi-family benchmarking |
| | a) Has a gross floor area than 20,000 square feet(( ~~excluding~~)) (gross floor a excludes parking), and | |
| | b) Is classified under the Building Code as a Resid Group R-2 occupancy. | |

| | | |
|---|---|---|
| 3. A structure or any portion of a structure ((~~which~~)) that: | | Encourage voluntary benchmarking compliance |
| | a) Has a gross area of les 20,000 square feet exclu parking. | |
| | b) Is classified under the Building Code as a Resi Group R-2 occupancy. | |
| 4. Buildings subject to the Seattle Residential Code((~~.~~)) | | Exempt |
| 5. All others not listed | | Exempt |

B. Building owners shall comply with the nonresidential-benchmarking building standards when 50((~~%~~)) percent or more of the gross building area, excluding parking, is used for nonresidential-benchmarking building uses((~~; and~~)) .

C. Building owners shall comply with the multi-family-benchmarking building standards when more than 50((~~%~~)) percent of the gross building area, excluding parking, is used for multi-family-benchmarking building uses.

D. This Chapter 22.920 shall not apply to buildings used primarily for industrial manufacturing purposes.

E. ((~~The Office of Sustainability shall investigate new approaches for energy benchmarking and reporting in commercial and multifamily buildings under 20,000 square feet and report back to the Seattle City Council by April 1, 2014.~~

~~F.~~)) The Director ((~~shall have the authority to~~)) may provide for grace periods.

Section 3. Section 22.920.020 of the Seattle Municipal Code, last amended by Ordinance 124919, is

amended as follows:

**22.920.020 Definitions**

For purposes of this ((~~chapter~~)) Chapter 22.920 ((~~only, the following words shall mean~~)):

* * *

"Director" means the Director of the ((~~Seattle Department of Construction and Inspections~~)) Office of Sustainability and Environment or the Director's designee, and includes any person or agency or representative of such person or agency to whom authority is delegated under this Chapter 22.920.

* * *

“Energy Benchmarking” means the assessment of a building’s energy use, greenhouse gas emissions, and efficiency.

* * *

Section 4. Section 22.920.030 of the Seattle Municipal Code, last amended by Ordinance 123993, is amended as follows:

**22.920.030 ((~~Nonresidential benchmarking buildings - preparing~~)) Preparing energy and emissions benchmarking reports**

Building owners of each building subject to nonresidential or multi-family benchmarking requirements shall provide to the Director, using the Energy Star Portfolio Manager or a similar rating system and in such form as established by Director's rule, energy and emissions benchmarking reports and, where available, energy and emissions performance ratings for each building according to the following schedule:

((~~A. For buildings larger than 50,000 square feet and having an initial occupancy date before January 1, 2010, reports and ratings pertaining to benchmarking for the year 2011 shall be submitted by October 1, 2012. Reports and ratings pertaining to benchmarking for the year 2012 shall be submitted by April 1, 2013, and thereafter, annual reports and ratings for each subsequent year shall be due each April 1st;~~

~~B. For buildings smaller than 50,000 square feet and larger than 20,000 square feet and having an initial~~

~~occupancy date before January 1, 2012, reports and ratings pertaining to benchmarking for the year 2012 shall be submitted by April 1, 2013, and thereafter, annual reports and ratings for each subsequent year shall be due each April 1st; and~~

~~C. By one year after the initial occupancy date for all other buildings having an initial occupancy date of January 1, 2012 or later.~~))

A. For buildings having an initial occupancy date of January 1, 2023, or later, reports and ratings pertaining to benchmarking for the year shall be submitted by June 1, 2024, and each subsequent June 1 thereafter of the year following a complete calendar year of occupancy, as determined by the date the Certificate of Occupancy is issued.

B. Newly constructed covered buildings that are not subject to benchmarking verification pursuant to the compliance deadlines in Section 22.925.060 shall have a qualified person (as defined by Section 22.925.020) verify benchmarking data for the first required benchmarking report under this Chapter 22.920 with other conditions established by rule.

Section 5. Section 22.920.040 of the Seattle Municipal Code, last amended by Ordinance 123993, is repealed:

((~~**22.920.040 Multi-family benchmarking buildings - preparing energy benchmarking reports**~~

~~Building owners of each building subject to multi-family benchmarking requirements shall provide to the Director, using the Energy Star Portfolio Manager or a similar rating system and in such form as established by Director's rule, energy benchmarking reports and, where available, energy performance ratings for each building according to the following schedule:~~

~~A. By October 1, 2012 and by April 1 annually thereafter for buildings larger than 50,000 square feet having an initial occupancy date before January 1, 2011;~~

~~B. By April 1, 2013 and by April 1 annually thereafter for buildings larger than 20,000 square feet having an initial occupancy date after January 1, 2011 and before January 1, 2012; and~~

~~C. By one year after the date of initial occupancy for all other buildings having an initial occupancy date of January 1, 2011 or later.~~))

Section 6. Section 22.920.120 of the Seattle Municipal Code, last amended by Ordinance 123993, is amended as follows:

**22.920.120 ((~~Sanctions~~)) Penalties**

A. Fines for the failure of a building owner to prepare, submit or annually update energy benchmarking reports and energy performance ratings as required by Section ((~~22.920.040~~)) 22.920.030 shall be imposed as follows:

((~~1. For Non-Residential buildings greater than 50,000 square feet having an initial occupancy date before January 1, 2011, upon the failure to submit the report and rating pertaining to benchmarking for the year 2011 by October 1, 2013, a fine of $2,000 shall be imposed; upon the failure to submit such report and rating by January, 1, 2013, the fine shall be increased to $3,000; and upon the failure by April 1, 2013, the fine shall be increased to $4,000.~~

~~2. For multi-family buildings greater than 50,000 square feet having an initial occupancy date before January 1, 2011, upon the failure to submit the report and rating pertaining to benchmarking for the year 2011 by January 1, 2013, a fine of $1,000 shall be imposed; upon the failure to submit such report and rating by April, 1, 2013, the fine shall be increased to $2,000; upon the failure to submit such report and rating by July 1, 2013, the fine shall be increased to $3,000; and upon the failure by October 1, 2013, the fine shall be increased to $4,000.~~

~~3.~~)) 1. For annual reports and ratings pertaining to benchmarking for ((~~the year 2012~~)) 2022 and each subsequent year ((~~thereafter~~)), for buildings greater than 50,000 square feet, for each annual energy benchmarking report (including a performance rating when available), ((~~the following fines shall be imposed~~)) a fine of $4,000 shall be imposed 90 days after the due date for the failure to submit the report and performance rating ((~~by the following dates:~~

~~a. 90 days after April 1 due date - total fine of $1,000~~

~~b. 180 days after due date - total cumulative fine of $2,000~~

~~c. 270 days after due date - total cumulative fine of $3,000~~

~~d. 360 days after due date - total cumulative fine of $4,000 provided,~~)) ; however, ((~~that~~)) no fine shall be imposed when failure to prepare or report an energy benchmarking report is due to a tenant's failure to provide information required under Section 22.920.050;

((~~4.~~)) 2. For annual reports and ratings pertaining to benchmarking for ((~~the year 2012~~)) 2022 and each subsequent year ((~~thereafter~~)), for buildings ((~~fewer~~)) equal to or less than 50,000 square feet, for each annual energy benchmarking report (including a performance rating when available), ((~~the following fines shall be imposed~~)) a fine of $2,000 shall be imposed 90 days after the due date for the failure to submit the report and performance rating ((~~by the following dates:~~

~~a. 90 days after April 1 due date - total fine of $500~~

~~b. 180 days after due date - total cumulative fine of $1,000~~

~~c. 270 days after due date - total cumulative fine of $1,500~~

~~d. 360 days after due date - total cumulative fine of $2,000 provided~~)) ; however, ((~~that~~)) no fine shall be imposed when failure to prepare or report an energy benchmarking report is due to a tenant's failure to provide information required under Section 22.920.050;

((~~5.~~)) 3. The Director ((~~shall have the authority by Director's rule to~~)) by rule may establish grace periods for imposing fines for any class of structure upon a finding that such grace period will facilitate the submission of energy benchmarking reports and energy performance ratings or otherwise further the purposes of this Chapter 22.920.

B. If the Director determines that a building owner has failed to disclose an energy benchmarking report or energy performance rating as required by Section 22.920.080, the Director may, in addition to any other remedy authorized by law or equity, ((~~seek the following remedies:~~)) impose a $500 fine.

((~~1. A $150 fine imposed for the first violation,~~

~~2. A $500 fine imposed for the second or subsequent violation, and~~

~~3. If a building owner of any building subject to this chapter has been previously issued a notice of violation under this chapter within the past two years, all subsequent violations by that building owner for failing to disclose an energy benchmarking report shall be subject to a $500 fine.~~))

C. If the Director determines that a tenant has failed to provide information to a building owner as required under Section 22.920.050, the Director may, in addition to any other remedy authorized by law or equity, ((~~seek the following remedies:~~)) impose a $500 fine on the tenant.

((~~1. A $150 fine imposed for the first violation,~~

~~2. A $500 fine imposed for the second or subsequent violation, and~~

~~3. If a tenant of any building subject to this chapter has been previously issued a notice of violation under this chapter within the past two years, all subsequent violations by that tenant for failing to provide information to a building owner as required under Section 22.920.050 shall be subject to a $500 fine.~~))

D. If the Director determines that a building owner has submitted an inaccurate energy benchmarking report or energy performance rating as required by this ((~~chapter~~)) Chapter 22.920, the Director may, in addition to any other remedy authorized by law or equity, seek the following remedies:

1. A ((~~$150~~)) $4,000 fine shall be imposed for ((~~the first violation~~)) buildings greater than 50,000 square feet;

2. A ((~~$500~~)) $2,000 fine shall be imposed for ((~~the second and any subsequent violations~~)) for buildings equal to or less than 50,000 square feet.

E. The fines set forth in subsection 22.920.120.A shall be imposed by serving a notice of violation that sets forth the specific violation, ((~~the amounts of each increase in fines and the specific dates upon which each increase in fines will accrue~~)) and shall state any penalties or fines imposed. A building owner shall have 30 days from the date of service of the notice of violation to seek an administrative review of the imposition of all

such fines ((~~, including each increase in fines,~~)) contained within the notice of violation. The initiation of such an administrative review is governed by Section 22.920.130. The failure of a building owner to initiate such an appeal within 30 days of the date of service of the notice of violation shall be deemed a waiver of the right to such administrative review and any subsequent appeal or request for mitigation to the Hearing Examiner under Section 22.920.155 or Section 22.920.160 of all fines contained within the notice of violation ((~~including each increase in fines~~)).

F. The fines set forth in subsections 22.920.120.B, 22.920.120.C, and 22.920.120.D shall be imposed by serving a notice of violation stating each violation and each corresponding penalty. Administrative review and appeal of all violations and penalties contained within a notice of violation shall be governed in accordance with Sections 22.920.130, 22.920.155, and 22.920.160.

G. Any other violation of this ((~~chapter~~)) Chapter 22.920 shall be subject to the issuance of a notice of violation and corresponding penalty provisions.

H. The Director by rule may raise penalty amounts to adjust for inflation or other relevant market conditions. Penalty amounts may not be adjusted for compliance dates before 2036. Revised penalty amounts for compliance in 2036 must be established by 2034, and may be revised every five years thereafter as warranted.

I. Revenue from penalties under this Chapter 22.920 shall be spent in accordance with Section 22.925.140.

Section 7. Section 22.920.130 of the Seattle Municipal Code, last amended by Ordinance 123993, is amended as follows:

**22.920.130 ((~~Administrative~~)) Director's administrative review of notice of violation ((~~by Director~~))**

A. A notice of violation shall be subject to administrative review if the aggrieved party requests in writing a review by the Director within 30 days after service of the notice of violation. When the last day of the review-request period is a Saturday, Sunday, or federal or City holiday, the period shall run until 5((~~:00~~)) p.m.

on the next business day.

B. To be considered by the Director, the written request for review must be submitted with the ((~~Energy Benchmarking and Reporting Violation Review Appeal Form~~)) benchmarking violation appeal form, which ((~~will~~)) must document the reason for the review.

C. After receiving a request for review, the Director shall notify the requesting party, the building owners who received a notice of violation, and any person who requested notice of the review that a request for review has been received.

D. The Director will review the basis for issuing the notice of violation and the ((~~Violation Review Form~~)) benchmarking violation appeal form. The Director may request clarification of information received. After the review is completed, the Director may ((~~:~~

~~1. Sustain the notice of violation,~~

~~2. Withdraw the notice of violation,~~

~~3. Continue the review to a date certain for receipt of additional information, or~~

~~4. Modify or amend the notice of violation.~~)) sustain, withdraw, modify, or amend the notice of violation, or continue the review to a date certain for receipt of additional information.

E. The Director's administrative review decision is final. An aggrieved party may submit a ((~~but is subject to a~~)) request for a mitigation hearing or a contested hearing before the Hearing Examiner in accordance with Sections 22.920.155 and 22.920.160.

F. The Director by rule may establish grace periods for submitting a Notice of Violation appeal for administrative review.

Section 8. Section 22.920.170 of the Seattle Municipal Code, last amended by Ordinance 125000, is amended as follows:

**22.920.170 Contested hearings**

A. Date and ((~~Notice~~)) notice. If a person requests a contested hearing, the hearing shall be held within

60 days after the Hearing Examiner has received a written response to the ((~~notice of violation~~)) administrative review decision requesting such hearing ((~~is received~~)).

* * *

E. Evidence at ((~~Hearing.~~)) hearing

1. The certified statement or declaration authorized by RCW ((~~9A.72.085~~)) 5.50.050 submitted by the Director shall be prima facie evidence that a violation occurred and that the person cited is responsible. The certified statement or declaration of the Director authorized under RCW ((~~9A.72.085~~)) 5.50.050 and any other evidence accompanying the report shall be admissible without further evidentiary foundation.

2. Any certifications or declarations authorized under RCW ((~~9A.72.085~~)) 5.50.050 shall also be admissible without further evidentiary foundation. The person cited may rebut the evidence and establish that the cited violation(s) did not occur or that the person contesting the notice of violation is not responsible for the violation.

Section 9. Section 22.930.010 of the Seattle Municipal Code, enacted by Ordinance 125002, is amended as follows:

**22.930.010 Applicability and expiration date**

This Chapter 22.930 applies to all non-residential buildings that are (1) equal to or larger than 50,000 square feet of floor area; and (2) are subject to ((~~Energy Benchmarking~~)) benchmarking requirements in Section 22.920.010. For buildings with both residential and non-residential space uses, this Chapter 22.930 applies to non-residential portions of a building where the non-residential space is equal to or larger than 50,000 square feet of floor area. This Chapter 22.930 shall expire on December 31, 2028.

Section 10. Section 22.930.020 of the Seattle Municipal Code, enacted by Ordinance 125002, is amended as follows:

**22.930.020 Definitions**

In this Chapter 22.930, the following definitions apply:

* * *

"Energy benchmarking" means the assessment of a building's energy use, greenhouse gas emissions, and efficiency as required in Chapter 22.920.

* * *

Section 11. Section 22.930.040 of the Seattle Municipal Code, enacted by Ordinance 125002, is amended as follows:

**22.930.040 Exemptions and extensions**

A. Buildings meeting one or more of the following conditions may apply for an exemption from complying with a single interval of tune-ups as required by this Chapter 22.930. Building owners shall demonstrate they meet a condition for exemption by submitting evidence of the condition to the OSE Director no later than 180 days before the tune-up compliance date as specified in Section 22.930.050, unless the Director determines otherwise. The OSE Director shall notify applicants within ((~~60~~)) 45 days of receiving an exemption request on the determination of whether the exemption is granted. Conditions meeting an exemption include but are not limited to:

1. Buildings with a high certified ENERGY STAR score preceding the tune-up compliance date identified in Section 22.930.050, as determined by the Director;

2. Buildings that have received a green building certification that is equivalent to standards accepted in the industry for an efficiently operating building within the three years preceding the tune-up compliance date identified in Section 22.930.050. ((~~As of the date of the ordinance introduced as Council Bill _____, a~~)) A green building certification could be equivalent to ((~~a Gold Rating under the USGBC's LEED for Operations and Maintenance v4, or~~)) a Net-Zero Energy Certification from the International Living Future Institute or similar, as determined by the OSE Director;

3. Buildings that can show evidence of active monitoring and continuous commissioning, as determined by the Director;

4. Buildings that have participated in and successfully completed an approved utility retro-commissioning incentive program in the three years preceding the tune-up compliance date identified in Section 22.930.050;

5. Buildings that have completed a full retro- or re-commissioning procedure within the three years preceding the tune-up compliance date identified in Section 22.930.050, with documentation that building performance was optimized;

6. Buildings that can demonstrate energy savings of at least 15 percent in the three years preceding the tune-up compliance date identified in Section 22.930.050;

7. Buildings that have undergone an energy audit no less stringent than the ASHRAE Level II standard and implemented all of the no-cost/low-cost energy efficiency measures, defined as providing a simple payback of three years or less, identified in the audit in the three years preceding the tune-up compliance date identified in Section 22.930.050;

8. ((~~Buildings that have participated in the Seattle City Light Energy Assistance Analysis program or equivalent, as determined by the OSE Director, and implemented the program defined cost-effective measures within the three years preceding the tune-up compliance date identified in Section 22.930.050;~~)) Buildings that can demonstrate early adopter compliance with the Washington Clean Buildings Performance Standard as defined in chapter 194-50 WAC, with documentation and verification as determined by the OSE Director by the mandated schedule for tune-ups and reporting compliance dates identified in Section 22.930.050;

9. Buildings scheduled to be demolished within one year of the date the building tune-up is due pursuant to Section 22.930.050, per documentation determined by the OSE Director;

10. Buildings that demonstrate financial distress, such as being owned by a financial institution through default of the borrower, or other conditions as determined by the OSE Director ((~~.~~)) ;

11. Buildings receiving their initial certificate of occupancy less than three years before the tune-

up compliance date identified in Section 22.930.050 ((.)) ; or

12. Buildings receiving approval for a second one-year extension, during the second tune-up compliance interval of 2023 - 2026 and after January 1, 2024, as determined by the OSE Director.

B. The OSE Director ((~~is authorized to~~)) may prescribe rules for requesting an exemption under this Chapter 22.930.

Section 12. Section 22.930.050 of the Seattle Municipal Code, enacted by Ordinance 125002, is amended as follows:

**22.930.050 Schedule for tune-ups and reporting**

* * *

C. A building owner may apply for a one-year compliance extension by showing good cause. ((~~Receiving an extension does not alter the future schedule for compliance. By requesting and receiving an extension, the building's next compliance schedule will be less than the typical five-year schedule.~~)) The OSE Director is authorized to prescribe rules for applying for an extension under this subsection 22.930.050.C. Conditions to receive an extension include but are not limited to:

1. Buildings with less than 100,000 square feet with less than 50 percent of the rentable floor area occupied, or buildings with greater than or equal to 100,000 square feet with less than 50,000 square feet of the rentable floor area occupied.

2. Buildings or building owners that can demonstrate a disproportionate burden of this Chapter 22.930, as determined by the OSE Director.

Section 13. Section 22.930.120 of the Seattle Municipal Code, last amended by Ordinance 125492, is amended as follows:

**22.930.120 Penalties**

A. Penalties for the failure of a building owner to comply with Section 22.930.030, 22.930.050, or 22.930.070 shall be imposed as follows for each five-year tune-up requirement pursuant to the schedule in

Section 22.930.050.

1. For buildings greater than or equal to 200,000 square feet, the following penalties shall be imposed for the failure to tune-up a building and submit a report as required by Section 22.930.050:

a. 180 days after October 1 due date - $5,000;

b. 360 days after due date - $20,000.

2. For buildings greater than or equal to 100,000 square feet and less than 200,000 square feet, the following penalties shall be imposed for the failure to tune-up a building and submit a report by the following dates:

a. 180 days after due date - $2,500;

b. 360 days after due date - $10,000.

3. For buildings greater than or equal to 50,000 square feet and less than 100,000 square feet, the following penalties shall be imposed for failure to tune-up a building and submit a report by the following dates:

a. 180 days after due date - $2,000;

b. 360 days after due date - $8,000.

4. The OSE Director ((~~shall have the authority by OSE Director's rule to~~)) by rule may establish grace periods for imposing penalties for any class of structure upon a finding that such grace period will facilitate completion of a tune-up of building energy and water systems and the submission of ((~~energy benchmarking reports and energy performance ratings~~)) a report to the City of findings, outcomes and actions taken based on the tune-up or otherwise further the purposes of this Chapter 22.930.

B. ((~~If a building owner of any building subject to this Chapter 22.930 has been previously issued a notice of violation under this Chapter 22.930 within the past two years, all subsequent violations by that building owner for failing to disclose an energy benchmarking report shall be subject to a $500 fine in addition to any other penalty imposed under this Chapter 22.930.~~

~~C.~~)) If the Director determines that a building owner or tune-up specialist has intentionally misrepresented the results of a tune-up in its report, the OSE Director may, in addition to any other remedy authorized by law or equity, may seek the following remedies:

1. A $5,000 fine shall be imposed for ((~~the first violation~~)) buildings greater than or equal to 100,000 square feet; and

2. A $10,000 fine shall be imposed for ((~~the second and any subsequent violations~~)) buildings greater than or equal to 50,000 square feet and less than 100,000 square feet.

((~~D. An account shall be established in the City's General Fund to receive revenue from penalties under this Section 22.930.120. Revenue from penalties under this subsection 22.930.120.D shall be allocated that aim to improve the energy and water efficiency of Seattle buildings. The OSE Director shall recommend to the Mayor and City Council how these funds should be allocated.~~)) C. Revenue from penalties under this Chapter 22.930 shall be spent in accordance with Section 22.925.140.

((~~E.~~)) D. The penalties in subsection 22.930.120.A shall be imposed by serving a notice of violation (( ~~that states the specific violation, the amounts of each increase in penalties, and the specific dates that each increase in penalties will accrue.~~)) in the manner set forth in RCW 4.28.080 for service of a summons or sent by first class mail, addressed to the last known address of such person(s). Service shall be complete at the time of personal service or, if mailed, three days following the date of mailing. The notice of violation shall state the amount of penalties imposed, each requirement that was violated, the amounts of each increase in penalties, and what corrective action is necessary to comply with the requirements. A building owner shall have 30 days from the date of mailing or service of the notice of violation to seek an administrative review of the imposition of the penalties, including each increase in penalties, contained in the notice of violation. The initiation of an administrative review is governed by Section 22.930.140. The failure of a building owner to initiate an appeal within 30 days of the date of service of the notice of violation shall be a waiver of the right to an administrative review and a waiver of any subsequent appeal or request for mitigation to the Hearing Examiner under Section

22.930.140 or Section 22.930.160 of all penalties contained within the notice of violation.

E. The penalties in subsection((s)) 22.930.120.B ((~~and 22.930.120.C~~)) shall be imposed by serving a notice of violation ((~~stating each violation and each corresponding penalty~~)) in the manner set forth in RCW 4.28.080 for service of a summons or sent by first class mail, addressed to the last known address of such person(s). Service shall be complete at the time of personal service or, if mailed, three days following the date of mailing. The notice of violation shall state the amount of penalties imposed, each requirement that was violated, and what corrective action is necessary to comply with the requirements. Administrative review and appeal of all violations and penalties contained within a notice of violation shall be governed in accordance with Sections 22.930.130, 22.930.140, 22.930.150, and 22.930.160.

F. Any other violation of this Chapter 22.930 shall be subject to the issuance of a notice of violation and corresponding penalty provisions.

Section 14. Section 22.930.140 of the Seattle Municipal Code, enacted by Ordinance 125002, is amended as follows:

**22.930.140 ((~~Administrative~~)) OSE Director's administrative review of notice of violation ((~~by OSE Director~~))**

* * *

B. To be considered by the OSE Director, the written request for review ((~~shall~~)) must be submitted with the ((~~Building Tune-Up and Reporting Violation Review Form~~)) building tune-up violation appeal form, which shall document the reason for the review.

* * *

F. The Director by rule may establish grace periods for submitting a Notice of Violation appeal for administrative review.

Section 15. Section 22.930.180 of the Seattle Municipal Code, enacted by Ordinance 125002, is amended as follows:

**22.930.180 Contested hearings**

A. Date and notice. If a building owner requests a contested hearing, the hearing shall be held within 60 days after the Hearing Examiner has received a written response to the ((~~notice of violation~~)) administrative review decision requesting such hearing ((~~is received~~)).

* * *

E. Evidence at hearing

1. The certified statement or declaration authorized by RCW ((~~9A.72.085~~)) 5.50.050 submitted by the Director shall be prima facie evidence that a violation occurred and that the person cited is responsible. The certified statement or declaration of the Director authorized under RCW ((~~9A.72.085~~)) 5.50.050 and any other evidence accompanying the report shall be admissible without further evidentiary foundation.

2. Any certifications or declarations authorized under RCW ((~~9A.72.085~~)) 5.50.050 shall also be admissible without further evidentiary foundation. The person cited may rebut the evidence and establish that the cited violations did not occur or that the person contesting the notice of violation is not responsible for the violation.

Section 16. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of its application to any person or circumstance, does not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

Section 17. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2023, and signed by me in open session in authentication of its passage this _____ day of _____, 2023.

_____

President _____ of the City Council

Approved / returned unsigned / vetoed this _____ day of _____, 2023.

_____

Bruce A. Harrell, Mayor

Filed by me this _____ day of _____, 2023.

_____

Scheereen Dedman, City Clerk

(Seal)