

## ORDINANCE NO. 25-20

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD AMENDING TITLES 9 AND 15 OF THE WEST HOLLYWOOD MUNICIPAL CODE TO ESTABLISH BUILDING ENERGY BENCHMARKING AND PERFORMANCE STANDARDS FOR COVERED BUILDINGS AND FINDING THE ORDINANCE EXEMPT FROM CEQA PURSUANT TO STATE CEQA GUIDELINES SECTIONS 15301, 15302, AND 15308

THE CITY COUNCIL OF THE CITY OF WEST HOLLYWOOD DOES HEREBY ORDAIN AS FOLLOWS:

### SECTION 1. FINDINGS.

- A. The purpose of this Ordinance is to improve energy performance, resilience, and decarbonize the City of West Hollywood's ("the City") existing building stock, including buildings constructed before or after the adoption of this Ordinance, by amending Chapter 15 of the West Hollywood Municipal Code (WHMC) to establish energy benchmarking and equitable building performance standards.
- B. On December 20, 2021, the City adopted its Climate Action and Adaptation Plan (WeHo Climate Action), establishing a path to reach carbon neutrality by 2035, adapt to climate change, and focus on equity and quality-of-life outcomes for the West Hollywood community. Approximately 80% of the City's existing residential building stock must be electrified by 2035 to reach carbon neutrality. In adopting the plan, the City Council also directed staff to develop Equitable Building Performance Standards to improve energy performance in existing buildings across West Hollywood. Equitable Building Performance Standards (EBPS) can address a range of community priorities, including building energy use, carbon emissions, energy costs, public health, resilience, and economic opportunity.
- C. This Ordinance intends to ensure that the provisions align with California Assembly Bill 802 (2015), codified in California Public Resources Code Section 25402.10, as amended, and California Code of Regulations Title 20, Division 2, Chapter 4, Article 9 (State Regulations) by requiring energy benchmarking for buildings over 20,000 square feet and ensuring compliance with state reporting protocols. This Ordinance also intends to align with the South Coast Air Quality Management District Rules 1111, 1121, and 1146.2,

which regulate NOx emissions and indoor air quality compliance in building design and operations. This Ordinance intends to reserve the authority to effectuate administrative updates to ensure effective implementation in alignment with applicable state, regional, and local policy development.

- D. A public hearing was duly noticed for the City Council meeting of November 17, 2025, by publication in the Beverly Press newspaper and the City website. The publication date, mailings, and legal posting took place on November 6, 2025.

SECTION 2. California Environmental Quality Act. The proposed Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. The City Council hereby finds that under Sections 15301, 15302, and 15308 of the State CEQA Guidelines, this Ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential to cause a significant effect on the environment. This Ordinance establishes requirements for Equitable Building Performance Standard (EBPS), a mandatory outcome-based policy that sets specific deadlines for existing and newly constructed public and/or private buildings over certain sizes to achieve quantified standards of whole-building, real-world performance across one or more metrics, such as energy use, water use, and/or greenhouse gas emissions. The standards become more extensive over time. The standards will not negatively affect the broader physical environment, as they contribute to a healthier and more sustainable built environment. This exemption applies to the ordinance's regulation of operational performance for buildings with a certificate of occupancy, and any project-specific CEQA review for new construction remains unaffected. Compliance with the Ordinance thus would not expand the use or capacity of existing buildings, and no exceptions to the CEQA exemptions apply. This Ordinance also constitutes an organizational or administrative activity that will not result in a physical change in the environment and is therefore not subject to CEQA pursuant to Section 15378(b)(5).

SECTION 3. Amendment to Municipal Code. A new Chapter 15.100 entitled "Mandatory Building Energy Benchmarking and Performance Standards" is added to Title 15 (Environmental Protection, Pollution and Solid Waste) of the West Hollywood Municipal Code (WHMC) to read as follows:

**Chapter 15.100 Mandatory Building Energy Benchmarking and Performance Standards**

### **15.100.010 Purpose**

This Chapter implements the goals of the City of West Hollywood's 2021 Climate Action and Adaptation Plan by lowering the environmental impact of covered buildings through reductions in greenhouse gas (GHG) emissions and onsite energy consumption. Owners of Covered Properties, as defined in Section 15.100.030 of this Chapter, will be required to complete annual building energy benchmarking and reporting activities. Subsequently, these owners will be required to demonstrate compliance with energy performance standards by following either a "Building Performance Pathway (BPP)" that allows the submittal of documentation confirming the building meets the applicable performance standards or a "Building Performance Action Plan Pathway (BPAP)" that requires an energy assessment and plan to retrofit the building's energy systems to ultimately meet the applicable performance standards at a later date. Through improvements to building energy systems as required by this Chapter, the City of West Hollywood will not only achieve reductions in carbon emissions, but residents will also benefit from healthier indoor and outdoor air quality, more comfortable buildings, better community resiliency, and the potential for lower energy bills and building operating costs. This Chapter intends to help modernize the City's covered buildings, many of which were constructed before energy efficiency standards, so that all residents, regardless of income, enjoy the benefits of improved comfort, health, and efficiency of the City's buildings. This Chapter applies to buildings after issuance of a certificate of occupancy, whether constructed before or after the adoption of this Chapter, and does not regulate the design or construction of new buildings.

### **15.100.020 Scope**

This Chapter applies to all Existing Buildings with a Gross Floor Area of twenty thousand (20,000) square feet or more that have received a certificate of occupancy, whether constructed before or after the adoption of this Chapter. For buildings constructed after the adoption of this Chapter, compliance with benchmarking and performance standards shall begin in the first full calendar year following issuance of the certificate of occupancy.

This Chapter shall not apply to:

- A. Buildings with a Gross Floor Area of less than twenty thousand (20,000) square feet;
- B. One- and two-family dwellings and their accessory structures;
- C. Multifamily properties with four (4) or fewer dwelling units;

- D. Broadcast antennas;
- E. Utility pumping stations;
- F. Buildings for which a demolition permit for the entire building has been issued and demolition has commenced before the next Interim Performance Standard deadline;
- G. Buildings owned by public entities, as defined by California Government Code section 811.2, other than the City; or
- H. Other buildings that do not meet the purpose of this Chapter, as determined by the Department Director or their designee.

### **15.100.030 Definitions**

Notwithstanding the applicable definitions, symbols, and notations in the Municipal Code, the following definitions shall apply for the purposes of this Chapter:

“Administrative Guidelines” means guidelines developed and updated by the City Manager or their designee that outline additional details and support for complying with this Chapter, including, but not limited to, Benchmarking, Performance Metrics, Performance Standards, and Compliance Pathways.

“Base Building System” means a primary system that serves an entire building, excluding tenant-specific equipment. Such systems typically include, but are not limited to, heating, ventilation, and air conditioning (HVAC) systems, common area lighting and controls, domestic hot water systems, and building envelope (roof and facade).

“Baseline Year” means a specific 12-month period selected by the Department for each Performance Metric.

“Benchmarking” means measuring a Covered Property’s energy performance using the ENERGY STAR® Portfolio Manager or other platforms designated by the Department.

“Benchmarking Report” means an annual summary of a Covered Property’s energy performance generated by an Energy Benchmarking Tool.

“Building Performance Action Plan (BPAP)” means a custom compliance plan, approved by the Department, that specifies actions and timelines for improving a Covered Property’s overall energy performance.

“City” means the City of West Hollywood.

“Covered Property” means any building that meets the applicability requirements in Section 15.100.020 of this Chapter.

“Department” means the City’s Community Development Department.

“Electric Demand” means the rate at which electricity is used, measured in kilowatts (kW).

“Energy Benchmarking Tool” means the ENERGY STAR® Portfolio Manager web-based tool developed by the United States Environmental Protection Agency, or any alternative system or tool approved by the Department that rates the performance of a Covered Property in relation to similar buildings and accounts for the impacts of year-to-year weather variations, building size, location, and several operating characteristics.

“Energy Professional” means a third-party individual who has one of the following licenses, credentials, or certifications, and is in good standing with the authorizing organization: (1) Professional Engineer (PE) issued within the United States, (2) Registered Architect (RA) issued within the United States, (3) Certified Energy Manager (CEM from AEE), (4) Building Energy Assessment Professional (BEAP from ASHRAE), (5) Energy Management Professional (EMP from EMA), or any other data verifier license or training program credentials recognized by the Department and posted to its website.

“Existing Building” means any building that has received a certificate of occupancy, whether constructed before or after the adoption of this Chapter.

“Final Performance Standard” means the specific Performance Metric value that a Covered Property must achieve by the date specified in Section 15.100.050 of this Chapter and maintain thereafter.

“Financial Hardship” means a condition(s) where an Owner faces economic challenges that reasonably impede compliance with this Chapter. Financial Hardship is deemed to exist if the Covered Property currently is:

- a. Under the control of a court-appointed receiver due to financial distress;
- b. Owned by a financial institution as a result of a borrower’s default;

- c. Acquired by a financial institution through a deed in lieu of foreclosure;
- d. Encumbered by a senior mortgage subject to a notice of default;
- e. An asset currently involved in probate proceedings; or
- f. Subject to a State of California Board of Equalization (BOE) Welfare Property Tax Exemption and the cost of complying with the reporting requirements will exceed or significantly deplete existing cash flow. In such cases, the Owner must provide proof of a BOE-issued organizational clearance certificate and, where the Owner is a limited partnership, a supplemental clearance certificate.

“Greenhouse Gas (GHG) Emissions” means emissions of gases released into the atmosphere that contribute to climate change, including but not limited to carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), and nitrous oxides (NO<sub>x</sub>). Greenhouse gas emissions are expressed in metric tons of carbon dioxide equivalent (CO<sub>2</sub>e). Greenhouse gas emissions include leakage and other emissions resulting from the extraction, processing, and distribution of fuels.

“Greenhouse Gas Emissions Intensity (GHGI)” means a measurement of a 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 kg CO<sub>2</sub>e units per square foot per year (kg CO<sub>2</sub>e/sq ft/yr).

“Gross Floor Area” means the total building square footage, as measured between the outside surface of the exterior walls of a building.

“Interim Performance Standard” means the performance metric values that a Covered Property must meet by the dates specified in Section 15.100.050 of this Chapter.

“Owner” means any of the following:

- a. an individual(s) or entity(ies) possessing title to a Covered Property;
- b. the board of the owners’ association, in the case of a Condominium;
- c. the master association, in the case of a Condominium, where the powers of an owners’ association are exercised by or delegated to a master association;
- d. the board of directors, in the case of a cooperative apartment corporation; or
- e. an agent authorized to act on behalf of any of the above.

“Performance Metric” means each of the objectively verifiable numeric measures of building performance regulated by this Chapter as outlined in Section 15.100.050 of this Chapter.

“Property Type” means the single, primary use of buildings at a property as defined by the Energy Benchmarking Tool, or as defined by the Department.

“Retrocommissioning” means a systematic process for optimizing existing systems relating to building performance through the identification and correction of deficiencies in such systems.

“Retrofit Measure” means an upgrade or alteration of building systems involving the installation of energy efficiency and/or distributed energy resource technology that reduce energy and improve the efficiency of such systems.

“Site Energy Use” means the total energy consumed annually at a building to provide heating, cooling, lighting, water heating, cooking, refrigeration or any other end use. It is measured in thousand British thermal units (“kBtu”). It does not include separately metered electricity used to charge vehicles or energy used for other purposes deemed at the discretion of the Department to be unrelated to the operation of the building(s). It includes electricity, natural gas, steam, fuel oil, diesel, propane, district thermal energy, and renewable onsite electricity generation, or other product.

“Site Energy Use Intensity (EUI)” means the site energy use divided by the Gross Floor Area, as defined by the U.S. Environmental Protection Agency. A normalized EUI is adjusted for property characteristics, site energy factors, and source energy factors as determined by the Energy Benchmarking Tool, or as defined by the Department.

“Social Cost of Carbon (SC-CO<sub>2</sub>)” means a measure, in dollars, of the long-term damage done by a ton of carbon dioxide (CO<sub>2</sub>) emissions in a given year. This dollar figure also represents the value of damages avoided for a small emission reduction (i.e., the benefit of a CO<sub>2</sub> reduction). The value of the SC-CO<sub>2</sub> will be based on values utilized by the U.S. Environmental Protection Agency, state, or regional government agency.

#### **15.100.040 Annual Benchmarking**

- A. Annual Benchmarking Requirement. No later than May 15th of each year beginning in 2026, the Owner of each Covered Property shall submit a Benchmarking Report detailing their building's energy use from the previous calendar year using the Energy Benchmarking Tool. For buildings that receive a certificate of occupancy after adoption of this Chapter, the first Benchmarking Report shall be submitted by May 15 of the first full calendar year following issuance of the certificate of occupancy.
- B. Data Collection. The Owner of each Covered Property shall request energy use data from each utility serving the property.
- C. Energy Benchmarking Report Components.
  - 1. Descriptive Information. Basic descriptive information to track and ensure compliance with this Chapter and California's Building Energy Benchmarking Program, as set forth in California Code of Regulations, Title 20, Article 9, including, at a minimum, but not limited to:
    - a. Property address
    - b. Gross Floor Area
    - c. Property type
    - d. Year Built
    - e. Number of stories
  - 2. Energy Benchmarking Information. Necessary data for energy usage Benchmarking, including, at a minimum, but not limited to:
    - a. Monthly energy billing amounts;
    - b. Annual maximum Electric Demand (in kW) and the corresponding date; and
    - c. Monthly maximum Electric Demand (in kW).
- D. Data Verification. By the benchmarking deadline in 2026, Owners shall have a qualified Energy Professional verify the accuracy of the Covered Property's Benchmarking data for the previous calendar year, January 1 - December 31, 2025. Verifications shall be submitted through the Energy Benchmarking Tool as part of the Benchmarking Report. For buildings that receive a certificate of occupancy after adoption of this Chapter, data verification shall occur by May 15 of the first full calendar year following issuance of the certificate of occupancy.
- E. Owners shall consult the Administrative Guidelines for further information regarding components and submission of the Benchmarking Report. The Department may extend the



benchmarking and data verification deadlines by up to 120 days via the Administrative Guidelines to support initial compliance efforts.

**15.100.050 Building Performance Standards.**

- A. Performance Metrics. The Department shall set Final Performance Standards that collectively reduce the aggregate Greenhouse Gas Emissions attributable to all Covered Properties by at least 80% by 2035. The Department shall set Interim and Final Performance Standards to be published in the Administrative Guidelines for each Property Type using either or both of the following Performance Metrics: Site Energy Use Intensity (EUI) and/or Greenhouse Gas Emissions Intensity (GHGI).
- B. Schedule for Compliance with Performance Standards. Interim Performance Standards serve as progressive milestones leading to the Final Performance Standards. Covered Properties must meet both Interim and Final Performance Standards for their specific Property Type by the following dates:

Performance Standard	Performance Standard Deadline	Building Energy Use Period
First Interim Performance Standard	May 15, 2028	January 1- December 31, 2027
Second Interim Performance Standard	May 15, 2032	January 1- December 31, 2031
Final Performance Standard	May 15, 2036	January 1- December 31, 2035

- C. Mixed-Use Standards. For buildings with multiple Property Types, the Performance Standards shall be calculated on a pro-rata basis, using the Energy Benchmarking Tool to consider the combined square footage of each Property Type.

**15.100.060 Compliance Pathways**

Covered Properties must demonstrate compliance with the Interim and Final Performance Standards by annually submitting Benchmarking Reports to the Department as outlined in Section 15.100.040 of this Chapter. The Department shall determine compliance by comparing the Benchmarking Report results

against the Interim or Final Performance Standards for each Covered Property. To allow flexibility for Owners, a Covered Property is considered compliant if it completes one of the following pathways by the Interim and Final Performance Standard deadlines:

- A. **Building Performance Pathway (BPP).** A Covered Property will be considered compliant if it achieves the applicable Performance Standard by the specified dates outlined in Section 15.100.050.B. of this Chapter and maintains that Performance Standard until the next Performance Standard deadline.
- B. **Building Performance Action Plan (BPAP) Pathway.** If an Owner believes that a Covered Property cannot reasonably meet the applicable Interim Performance Standards, then the Owner may submit a Building Performance Action Plan (BPAP) to the Department for approval as outlined in Section 15.100.070 of this Chapter and the Administrative Guidelines. Owners may only utilize the Building Performance Action Plan Pathway to comply with the Interim Performance Standards. Owners must meet the Final Performance Standard through the Building Performance Pathway.

<b>Performance Standard</b>	<b>BPAP Compliance Deadline</b>	<b>Compliance Period</b>
First Interim Performance Standard: May 15, 2028	November 17, 2027	May 15, 2028 – May 14, 2032
Second Interim Performance Standard: May 15, 2032	November 17, 2031	May 15, 2032 – May 14, 2036
Final Performance Standard: May 15, 2036	BPAP is not available as a compliance pathway  Building Owners must comply via BPP by May 15, 2036	May 15, 2036 and thereafter

**15.100.070 Building Performance Action Plan (BPAP) Pathway**

- A. Building Performance Action Plan (BPAP). Owners subject to this Chapter that are unable to meet the Performance Standards outlined in Section 15.100.050 shall meet the requirements through the creation of a Building Performance Action Plan (BPAP), which will detail how the Covered Property will meet the applicable Final Performance Standard by May 15, 2036. Once a BPAP is approved by the Department, compliance with this Chapter is maintained until the next Interim Performance Standard so long as the Covered Property Owner adheres to the terms of the BPAP in a timely manner. Covered Property Owners must demonstrate progress toward achieving their Final Performance Standard by implementing Retrofit Measures as part of the BPAP. The Department may include specific provisions to address potential noncompliance in the BPAP; if these provisions are absent, the standard enforcement measures of this Chapter will apply.
- B. Building Performance Action Plan (BPAP) Requirements. By the deadlines outlined in Section 15.100.060.B., Owners of Covered Properties shall submit to the Department the following documentation in a form prescribed by the Department:
  - 1. Retrofit Measures and Timelines. The BPAP will contain at a minimum:
    - a. A list of proposed Retrofit Measures and the calendar year or qualifying event during which such retrofit measures will be made;
    - b. Expected dates for Covered Property compliance with the next Performance Standard;
    - c. A cost-benefit analysis using the applicable energy tariff from each utility and forecasted rates, demonstrating a path to achieving the applicable Performance Standard. The analysis shall include available incentives and rebates, and if applicable, revenues from Grid Services and/or energy attribute certificates.
  - 2. Current Benchmarking Report and either of the following:
    - a. A comprehensive energy audit report meeting or exceeding either the Department of Energy (DOE) asset

score standards, American Society of Heating Refrigerating and Air-Conditioning Engineers (ASHRAE) Level II audit standards in conformance with the ASHRAE Standard 211-2018 (or latest version) "Standard for Commercial Building Energy Audits." Audits shall be performed by an Energy Professional; or

- b. A Retrocommissioning report which shall be performed in accordance with industry-standard practices, including the latest version of ASHRAE Guideline 0.2 Commissioning Process for Existing Systems and Assemblies. These activities shall be performed by an Energy Professional.
3. Distributed Energy Resources (DER) Opportunity Report. This report shall utilize the Department of Energy's National Renewable Energy Laboratory REopt tool, or other methods specified by the Department. It must include DER sizes, associated costs, and available incentives and rebates applicable to the technologies.
4. Community Services and Benefits. Owners are encouraged, but not required, to propose additional community services and benefits, which the Department will evaluate based on their value and alignment with the City's Climate Action and Adaptation Plan's (CAAP) equity and sustainability goals.

**15.100.080 Extensions, Adjustments, and Exemptions.**

- A. Exceptions and Adjustments from Performance Standards. To apply for an extension, adjustment, or exemption to any Performance Standard for a Covered Property, the Owner shall submit an application in a form prescribed by the Department. The application must be submitted to the Department at least 180 days prior to any Interim or Final Performance Standard submission deadline. To be eligible, the Covered Property must meet one of the following criteria:
  1. The building did not have a certificate of occupancy or a temporary certificate of occupancy for more than half of the Baseline Year of reporting, prior to the given Performance Standard deadlines as outlined in Section 15.100.050.B;
  2. The building was fully vacant for more than half of the calendar year required for Annual Benchmarking. In such cases, all data specified in Section 15.100.040 must be

- reported, except for energy-related information as outlined in Section 15.100.040.C.2. of this Chapter;
3. The building is under Financial Hardship, as verified by recent financial statements, legal filings, and other relevant documents as determined by the Department;
  4. The building is a Cultural Resource, as defined in Section 19.90.020, requesting adjustments to Performance Standards to comply with Chapter 19.58;
  5. Residential Condominiums, included in the definition of "Common Interest Development" in Section 19.90.020, are exempt from the Building Performance Standards in Section 15.100.050 and the requirements of this section, but remain subject to Benchmarking (Section 15.100.040), Data Verification, and Disclosures Upon Sale (Section 9.25.020)
- B. Documentation and Review Process. The Community Development Director, or their designee, will review the application and documentation, and make a determination, notifying the Owner in writing of the decision and any conditions. If the Department discovers that an extension, adjustment, or exemption was granted based on materially inaccurate submissions, it reserves the right to revoke or modify the granted extension, adjustment, or exemption.

### **15.100.090 Appeals**

An Owner may appeal a determination that their building is a Covered Property under this Chapter. The appeal shall be submitted to the Department at least 180 days before the submission deadline for any Interim or Final Performance Standard, as described in Section 15.100.050. Each appeal must be made in writing and clearly specify the grounds for appeal. Upon receipt of the appeal, the Department will schedule the appeal hearing for a regular City Council meeting. The City Council will review and decide on the appeal within 90 days of its submission. The City Council's decision on the appeal shall be final.

### **15.100.100 Administrative Guidelines**

The City Manager, or their designee, has the authority to promulgate Administrative Guidelines to ensure the effective implementation of this Chapter. The Administrative Guidelines may include, but are not limited to, establishing the Social Cost of Carbon, GHGI calculation procedures, setting normalization factors, and defining and reporting emissions factors. Additional areas covered may involve updating Property Types and their associated Performance Standards;

establishing processes for alternative compliance, extensions, and exemptions; adjusting requirements for data verification, creating or modifying reporting formats, templates, and procedures; and adjusting penalty amounts and building end-use deductions.

**15.100.110 Transparency**

- A. Benchmarking Data. The City may publish limited and anonymized Benchmarking summary data for each Covered Property, as reported by Owners, on the City's website, pursuant to State Law (Public Resources Code section 25402.10).
- B. Performance Standards. The City may publish the Interim and Final Performance Standards for each Covered Property on an annual basis.

**15.100.120 Compliance Obligation**

- A. Responsibility to Comply. Owners of Covered Properties shall demonstrate compliance with all applicable Interim and Final Performance Standards by the compliance dates published by the Department. Responsibility to comply shall not be affected by changes in ownership, Owner/tenant lease language, or changes thereto.
- B. Separate Utility Metering. When necessary or beneficial to Owners and tenants, a building and one or more adjacent properties sharing energy, water, heating, or cooling may utilize third-party submeter(s) to allow independent measurement of each property's energy consumption. This arrangement requires prior written consent from the Department, where applicable.

**15.100.130 Enforcement**

- A. Notice of Violation. The City may issue notices of violation for any violation of this Chapter. The City may send notices of violation by first-class or certified mail to the Owner at the last known address recorded through the Los Angeles County Assessor's office or post a copy of the notice of violation on any real property within the city in which the city has knowledge that the Owner has a legal interest. The service shall be deemed complete at the time of deposit in the mail or when the notice was posted. Failure of any Owner notified by mail or posting to receive the notice of violation shall not affect the validity of any proceedings conducted in compliance with this chapter. No penalty shall be assessed prior to thirty (30) days after

receipt of a notice of violation by an Owner or if an Owner corrects the violation within thirty (30) days of receipt of a notice of violation.

- B. Failure to Comply with Benchmark Reporting Requirements. Each instance where an Owner of a Covered Property fails to meet the annual reporting requirements under Section 15.100.040 may result in a citation and fine not to exceed \$1,000 as specified in Section 13.04.130.
- C. Failure to Comply with Interim and Final Performance Standards. Any Owner of a Covered Property that fails to comply with Section 15.100.050 and does not have an approved Building Performance Action Plan (BPAP) as described in Section 15.100.070, including any rules or regulations adopted pursuant to this Chapter, shall be subject to fines equal to the Social Cost of Carbon for each unachieved CO<sub>2</sub>e reduction. The City's Fee Resolution shall establish the initial fine value in dollars per CO<sub>2</sub>e, which may increase periodically. Fine payments are required annually until compliance with Interim and Final Performance Standards is achieved.
- D. Failure to Comply with Benchmark Reporting, Building Performance Pathway (BPP), and Building Performance Action Plan (BPAP). Owners of Covered Properties who violate annual reporting requirements as outlined in Section 15.100.040 of this Chapter, fail to meet Interim and Final Performance Standards as outlined in Section 15.100.050 of this Chapter, and lack an approved BPAP as outlined in Section 15.100.070 of this Chapter shall be subject to a penalty up to \$10 per square foot multiplied by the Covered Property's Gross Floor Area, as reported in the most recent Benchmarking Report or Los Angeles County Assessor records. Owners subject to fines in this section shall make required payments annually until such time as the Covered Property meets its applicable Interim and Final Performance Standards or has an approved Building Performance Action Plan (BPAP) as described in Section 15.100.070.
- E. Failure to Provide Accurate Information. If the City determines that an Owner has submitted an inaccurate report under Section 15.100.040 or if there is a discrepancy of more than 50 percent between third-party verified data and an Owner's self-certified reporting data, the Owner will be cited and fined \$1,000.
- F. Appeals. Notice of Violation and citation appeals are governed by Chapter 1.08 of this Code. Appeals must specify whether the

violation pertains to Benchmarking, performance standards, BPAP compliance, or data accuracy, and include supporting documentation.

#### **15.100.140 Severability**

If any provision, section, subsection, sentence, clause, phrase, or other portion of this Chapter is for any reason found or declared to be unconstitutional or otherwise invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining provisions or portions of this Chapter, which remaining portions shall continue in full force and effect and can be implemented without the invalid provisions and, to this end, the provisions of this Chapter are declared to be severable. West Hollywood hereby declares that it would have adopted each and every provision and portion thereof not declared invalid or unconstitutional, without regard to whether any portion of the Chapter would subsequently be declared invalid or unconstitutional.

#### **15.100.150 Maintenance of Records**

Owner(s) shall maintain records as the Department determines necessary for effective enforcement of this Chapter, including, but not limited to, energy bills and reports or forms received from tenants and/or utilities, BPAPs, and records demonstrating compliance with Interim or Final Performance Standards. Such records shall be preserved for a period of five years. At the request of the Department, such records shall be made available for inspection and audit by the Department.

When a Covered Property is sold, the records shall be given to the new Owner.

SECTION 4. Amendment to Municipal Code. Section 9.25.020 "Disclosure of Mandatory Building Energy Benchmarking and Performance Standard Ordinances" is added to Chapter 9.25 entitled "Disclosures Upon Sale of Property" of the West Hollywood Municipal Code to read as follows:

#### **"Section 9.25.020 Disclosure of Mandatory Building Energy Benchmarking and Performance Standard Ordinance.**

In addition to any disclosure requirement required by law, any Agreement of Sale for real property in the City shall include the following disclosure:

"Buyer is aware that the City of West Hollywood has adopted requirements for building energy benchmarking and performance of different types of buildings. The requirements can be found in West



Hollywood Municipal Code Chapter 15.100. For more information on which types of buildings are required to comply with energy benchmarking and performance standards, Buyer is advised to contact the City of West Hollywood Community Development Department.”

For purposes of this section, agreement of sale shall mean any agreement or written instrument which provides that title to any property shall thereafter be transferred from one owner to another owner.”

SECTION 5. Certification. The City Clerk is directed to certify the passage and adoption of this Ordinance; cause it to be entered into the City of West Hollywood's book of original ordinances; make a note of the passage and adoption in the records of this meeting; and, within fifteen days after the passage and adoption of this Ordinance, cause it to be published or posted in accordance with California law.

SECTION 6. Record of Proceedings. The documents and materials associated with this Ordinance that constitute the record of proceeds on which these findings are based on located at West Hollywood City Hall, 8300 Santa Monica Boulevard, West Hollywood, California 90069. The City Clerk is the custodian of the record of proceedings.

SECTION 7. Effective Date. This Ordinance shall take effect thirty days after its adoption.