



# Memorandum

To: Honorable Mayor and Members of the City Council  
CC: Members of the Utilities Commission  
From: Cara Pratt, Sustainability and Resilience Coordinator  
Subject: Ordinance 01-O-25, "Healthy Buildings Ordinance" Amending City Code Section 4-22 "Building Energy and Water Use Benchmarking" to Incorporate Building Performance Standards and Creating Section 2-21  
Date: March 10, 2025

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Recommended Action:

The Environment Board and Utilities Commission recommend the adoption of Ordinance 01-O-25 to create an equitable community-led approach to building decarbonization.

CARP:

Municipal Operations, Building Efficiency, Renewable Energy, Resilience Regulations, Implementation, Accountability, & Partnerships

Council Action:

For Action

Summary:

The City of Evanston's [Climate Action and Resilience Plan](#) (CARP) outlines goals, such as carbon neutrality by 2050, to avoid irreparable climate change. To reach carbon neutrality, it is critical to address the leading causes of greenhouse gas emissions in Evanston: buildings and their use of natural gas. Two relevant focus areas of CARP call for a 50% reduction in building energy consumption from 2005 levels by 2050 and 100% renewable electricity for all Evanston accounts by 2030. CARP's building efficiency actions correspond directly to these goals: Action 1: Develop a strategy to transition to net-zero greenhouse gas emissions (NZE) building standards; and Action 3: Adopt policies that require retro-commissioning for larger buildings.

Natural gas used by buildings is currently the leading cause of greenhouse gas emissions in Evanston, responsible for approximately 41% of community-wide emissions. As of 2022, there has been a 36% reduction in greenhouse emissions from Evanston's 2005 baseline. However, Evanston's natural gas usage has remained approximately constant in the last 20 years.

Therefore, to reduce the risk of inequitable or delayed building decarbonization, staff have been directed to prepare an ordinance that prioritizes local benefits and community leadership to require increased efficiency, elimination of onsite and district system greenhouse gas emissions, and procurement of renewable electricity by 2050 for buildings over 20,000 square feet.

Since Ordinance 01-O-25 was introduced on January 13th, robust stakeholder engagement has taken place, and the following proposed amendments are included in a Revised Version of the Ordinance, highlighted in yellow in the attached Revised Ordinance document:

Proposed Amendments:

- Including the consideration of the "financial and practical impact on affected stakeholders" in the recitals.
- Clarifying that Equity Prioritized Buildings "may include but are not limited to public institutions, religious institutions, nonprofit organizations, and affordable housing."
- Adding an enforcement section that states: "No enforcement of performance standards shall begin until the rulemaking process is complete and interim and final performance standards are approved by City Council."
- Adding 2 additional members to the Healthy Buildings Accountability Board (HBAB) so that it has 9 total members, 3 of whom are also on the Healthy Buildings Technical Committee and are nominated by building owners.
- Requiring the HBAB to report on the Ordinance's impact on both residential and commercial affordability to City Council annually.
- Adding 1 additional member to the Healthy Buildings Technical Committee (HBTC) so that it has 6 total members.
- Requiring 3 of the HBTC members to be nominated by the Neighborhood Building Owners Alliance, the Chicagoland Apartment Association, and the Building Owners and Managers Association.
- Adding to the responsibilities of the HBTC "to define net zero greenhouse gas emissions and determine the allowance of certified carbon offsets, verified carbon credits, payments to local decarbonization funds, or other mechanisms to reach compliance."

The aforementioned proposed amendments appear only in the Revised Version of the Ordinance. The following amendments were adopted on February 10th and appear in both the Original Version of the Ordinance and the Revised Ordinance, both attached:

Amendments adopted on February 10th:

- Clarifying that City Council will amend this ordinance over time as the rulemaking process refines details.
- Clarifying that covered property owners will collaboratively determine baseline values with City staff.
- Defining Equity Prioritized Buildings to explicitly include public institutions, religious institutions, non-profit organizations, and affordable housing.
- Clarifying that a public rulemaking process will transparently establish rules, not City staff.

- Clarifying that maximum normalized site energy use intensity is a measure of energy efficiency.
- Clarifying that achieving net-zero emissions through acquiring certified carbon offsets, verified carbon credits, payments to local decarbonization funds, or other mechanisms can be a pathway to alternative compliance, rather than achieving absolute zero onsite emissions.
- Clarifying that an alternative compliance pathway plan can be submitted at any time but at least 6 months before a reporting submission deadline; can be canceled, revised, or resubmitted by a property owner and will not be unreasonably denied by City staff; and that staff decisions on alternative compliance pathway plans are appealable to the Healthy Buildings Accountability Board, whose recommendations are appealable to City Council.
- Moving the responsibility of establishing fines from City staff to the public Healthy Buildings Accountability Board.
- Adding "the financial impact on the covered property" to the criteria for establishing the fine structure.
- Increasing the percentage of fine revenue that goes to a local decarbonization fund to support compliance from 50% to 90%.
- Requiring that the Healthy Buildings Accountability Board monitor the ordinance's impacts on housing affordability and report impact and solutions to City Council.
- Clarifying the expertise required for Board and Committee membership and refining responsibilities.

### Background

Buildings across the United States have outdated and inefficient technology, resulting in environmental and health impacts. The replacement rate of buildings, demolition, and new construction affects less than 2% of the building stock per year, leaving outdated technologies in our current building stock. Additionally, while incentives exist for more efficient and electrified solutions, if buildings do not reduce natural gas usage and energy consumption, harmful environmental and health impacts will be perpetuated. It is common for building owners to replace like for like and think in the short term, leaving out considerations of health and climate change impacts. The proposed ordinance would require building owners to take into account the long-term and unintended impacts of their energy decisions.

### *Environmental Impact*

The buildings subject to regulation by this ordinance account for approximately 53% of community-wide emissions. Building emissions come from two sources: electricity and natural gas. One performance metric required by the ordinance will reduce the use of natural gas, and the other two will require efficient and renewable electricity use.

Methane (CH<sub>4</sub>) is a powerful greenhouse gas, the primary component of natural gas - the leading source of greenhouse gas emissions in Evanston. When released into the atmosphere, methane molecules trap more heat than CO<sub>2</sub> but have a shorter lifespan (7-12 years). Methane concentration in the atmosphere has more than doubled in the last 200 years, and scientists estimate that increases in methane emissions have been responsible for 20-30% of climate heating since the Industrial Revolution. The emissions intensity of natural

gas is expected to remain constant, while emissions reduction from electricity usage is a priority of the State of Illinois, and the Illinois Clean Energy Jobs Act requires 100% renewable electricity by 2050.

### *Health Impact*

The 2022 [EPLAN](#) highlights that Evanston has above-average air pollution levels. While this cannot directly be attributed to the use of natural gas in Evanston, there is evidence that natural gas negatively impacts indoor *and* outdoor air quality.

Natural gas exposure has been found to intensify health problems, as stoves, furnaces, and water heaters pollute the air in people's homes. Natural gas hook-ups can leak nitrogen dioxide (NOx) and other harmful pollutants, such as particulate matter and ozone, into the air. Harvard University conducted a [study](#) of 200 unburned natural gas samples and found at least 21 different hazardous air pollutants, as defined by the U.S. EPA. These pollutants are present even when appliances are not in use and can greatly increase risks of cancer, asthma, and other lung diseases, according to the [American Lung Association](#). The health impacts of natural gas exacerbate pre-existing health conditions among Evanston's most vulnerable.

By requiring renewable electricity use, onsite or offsite, this ordinance will spur the replacement of fossil fuel electricity generation like coal with zero emissions sources. Fossil fuel electricity generation "lead(s) to early death, heart attacks, respiratory disorders, stroke, asthma" (source: [Harvard School of Public Health](#).)

### *Policy design background*

In January 2022, the City of Evanston committed to inclusively design and implement building performance standards through the National Building Performance Standards (BPS) Coalition. Through Evanston's commitment, staff have gained access to building decarbonization experts at all levels, from utilities, workforce, non-profits, and various other governments who are ahead in these efforts.

A keystone non-profit organization in the development of similar BPS is the Institute for Market Transformation (IMT). IMT has helped several municipalities adopt benchmarking and or BPS policies. IMT has provided staff with model BPS ordinance language and extensive resources to approach this high-impact work equitably.

The Illinois Green Alliance, Slipstream, and the Midwest Energy Efficiency Alliance have provided expertise in utilities, policy design, building ownership, and building science. All four of these non-profits have been key to the policy design.

The Building Electrification Working Group has been the key public body responsible for advising building electrification and emissions reduction. The Evanston Environment Board and Utilities Commission are jointly represented in the working group, which consists of Evanston community members with expertise in energy, building science, policy design, community engagement, climate action, and environmental regulation. The working group has been critical in advising and critiquing policy design for electrification since July 2023.

### *Community Outreach Efforts*

Outreach, such as public meetings on building electrification, started in July 2023. Outreach has consisted of public meetings with the Environment Board and Utilities Commission, working group meetings, surveys, one-on-one meetings, mailers, emails, webinars, office hours, ward meetings, and more.

| Entity                                 | Number of engagement opportunities | Public                      |
|--|------------------------------------|-----------------------------|
| Building Electrification Working Group | 24                                 | Y                           |
| Environment Board                      | 10                                 | Y                           |
| Utilities Commission                   | 6                                  | Y                           |
| Webinars                               | 2                                  | Y                           |
| Office hours                           | 5                                  | Y                           |
| Mass email                             | 4                                  | N, affected properties only |
| Physical Mail                          | 2                                  | N, affected properties only |
| Ward Meetings                          | 5                                  | Y                           |
| Stakeholder Meetings                   | 15                                 | N, 1:1                      |

### *Benchmarking*

In 2016, the City Council passed the Energy and Water Benchmarking Ordinance (33-O-16), which requires buildings over 20,000 square feet and municipal buildings over 10,000 square feet to track and report annual energy and water usage. As the Sustainability and Resilience Division has grown, annual building benchmarking has become a more streamlined process. The proposed Healthy Buildings Ordinance builds upon the framework and submitted data of the Benchmarking Ordinance to put into place performance requirements for previously mentioned buildings. Approximately 500 buildings are covered by the Benchmarking Ordinance.

### *Changes to Benchmarking*

In the proposed Healthy Buildings Ordinance, exemptions for benchmarking are removed so that stadiums, storage facilities, factories, and others are required to report their energy and water use. Benchmarking will no longer require verification every three years, and verification requirements will now be handled during the baseline and interim performance standards reporting years for the Healthy Buildings Ordinance. Co-ops will now be treated the same as condominiums, so they will not be regulated under the 50,000-square-foot threshold.

| Size                        | Count |
|-----------------------------|-------|
| Municipal building          | 19    |
| 100,000 square feet or more | 85    |
| 50,000 - 99,999 sq ft       | 149   |
| 20,000 - 49,999 sq ft*      | 251   |

\* Excludes condominiums and co-op buildings

### *Healthy Buildings Ordinance Policy Approach*

The Healthy Buildings Ordinance (HBO) is a proposed building performance standard (BPS) that would regulate, educate, and provide a clear path for Evanston’s largest buildings (over 20,000 square feet) to comply with energy goals set out in our Climate Action and Resilience Plan (CARP). The approach builds a robust partnership network focused on equitably reducing the technical and financial barriers to this work. More specifically, HBO establishes three performance metrics:

1. Maximum normalized site energy use intensity
2. Maximum normalized onsite and district thermal greenhouse gas emissions
3. Minimum renewable electricity procurement

These three metrics will ensure that in 2050, the regulated buildings are:

1. Efficient
2. Zero greenhouse gas emissions
3. Powered by renewable electricity

Performance metrics will be set based on building use type; for example, all office buildings will have the same requirements, which will differ from the requirements for laboratories. By including normalization, the requirements ensure that buildings are not unfairly punished for being, for example, larger than their peers in the same use type.

To ensure that progress is made between passage and the end goal of 2050, interim performance standards must be met every five years. Interim and final performance standards will be established with input from the Healthy Buildings Accountability Board and the Healthy Buildings Technical Committee in the rulemaking process.

### *Flexibility*

It is important to recognize the complexity of the work associated with making substantial changes to a building. To create room for flexibility, the Healthy Buildings Technical Committee will create a process to intake considerations for timeline adjustments and/or adjustments or exemptions to one or more interim or final performance standards. An example of a timeline adjustment: staff anticipates that it would be reasonable not to punish buildings for a supply chain delay. An example of a performance standard adjustment: a building may request that, due to specific circumstances of their building, they can only reach a certain energy efficiency level. Buildings that are operated jointly or share ownership may apply to the Healthy Buildings Accountability Board to treat their buildings as a campus or

portfolio, granting them some flexibility to best address their multiple buildings. It is important that a portfolio or campus be reviewed for equity concerns so that building owners do not, for example, focus on improvements for a market-rate property and delay improvements in a non-market-rate property.

### *Benefits*

Aside from ensuring an intentional, timely, and equitable reduction of around half of the community-wide emissions, this ordinance will deliver a variety of benefits:

- Improved air quality: Reduced indoor and outdoor pollution lessens exposure to harmful toxins.
- Build local workforce capacity: Increased clean energy workforce benefits local workers and contractors with new training and job opportunities.
- Empower the community to make decisions: a stipend-supported process facilitates community decision-making.
- Optimized systems: Improved heating, cooling, and ventilation systems use less energy and increase tenant control.
- Reduced utility costs: Increased efficiency means lower utility bills.

### *Community Leadership*

To increase community leadership and ensure an equitable and nuanced approach, two new public bodies will be created. The Healthy Buildings Accountability Board (HBAB) and the Healthy Buildings Technical Committee (HBTC). The HBAB is authorized to make recommendations and decisions related to decarbonization policies and programs. HBAB will bring community expertise in social equity, housing, environmental justice, and climate action. HBTC will bring community leadership to standard setting, reporting requirements, and rules. HBTC will report to the HBAB so that technical recommendations are reviewed with an equity lens.

The HBAB will prioritize regulated buildings to receive City aid. This ensures that the community decides which buildings receive the most help. The HBAB and HBTC will be empowered to explore synergistic policies like rent protection. Both will be responsible for how the standards are achieved, such as the timeline of efficiency improvements by building use type.

### *Enforcement*

Fines will consider the magnitude of non-compliance and assessed property value. This ensures that the fine is not regressive or has built-in equity consideration. In the rulemaking process, the HBAB and HBTC will aid staff in finalizing fine structures.

### *Project Team*

As previously stated, there have been various non-profits supporting staff and the covered buildings in this effort. Slipstream, MEEA, Illinois Green Alliance (IGA), and IMT are foreseen to continue to be helpful partners. Close collaboration with Slipstream, MEEA, and IGA is expected as they can connect key stakeholders and resources, such as aligning goals and programs between different levels of government and other municipalities and influencing utility program offerings.

IGA's Building Energy Resource Hub mission is:

- Addressing market gaps by acting as an objective resource for technical training, resources, and education
- Convening and curating energy efficiency and financing best practices to serve as a one-stop-shop
- Focusing on technical and actionable resources
- Creating connections and links to partner programs and services

The Hub focuses primarily on serving building developers, owners, operators/managers, and contractors – but will also support a wide group of building decision-makers.

### *Concerns*

There are a variety of justified concerns associated with this work. Equity, technical, and financial hurdles are identified as the biggest challenges. To address these concerns, the approach has built and will continue to foster a robust partnership network, put community experts in leadership roles, and increase staff capacity.

Equity is top of mind in this policy design. To address equity concerns, staff are excited to empower the community. The Healthy Buildings Accountability Board, mentioned previously, will be stipend-supported and empowered to prioritize buildings for City technical and financial aid, consider synergistic policies, tools, and programs, and review the implementation of this ordinance. Some synergistic policies and programs the HBAB might promote could include rent protection, streamlining green leases, and more. Further, alternative compliance will recognize the complexity of this work and provide flexibility.

Technical concerns are justified, as it may be difficult for many building owners to determine what this ordinance means for them. Staff are prepared to address this concern through a variety of approaches. Buildings that the HBAB prioritizes will receive technical assistance to determine what their building needs to do to reach compliance, with recommendations on the best path to follow. It is anticipated that approximately 100 buildings will receive that aid. For additional technical aid, in collaboration with partners, the City is streamlining access to technical expertise provided through ComEd and IGA programs. These programs include free facility assessments. Staff continue to work with Slipstream to tailor more ComEd programs to benefit the regulated buildings.

Concerns about workforce availability and economic impact are also justified. With DOE funds, staff are preparing to foster new entrants to the workforce through a partnership with Rebuilding Exchange. Additionally, for existing contractors, there may be funding for local training covering topics such as heat pump retrofits for multi-family residential buildings. These efforts occur alongside the State of Illinois' efforts to build a clean energy workforce. Within the State, there are ample efforts to ensure Illinois has the workforce needed for a decarbonized economy.

Financial concerns are justified, as buildings may have non-trivial upfront costs to comply. See the subsection below.

### *Funding*



Staff recognizes that building electrification is costly and plans to devote significant time, with collaboration from the HBAB, to helping buildings acquire funding for decarbonization. Grant funding is available from regional, state, and other entities dedicated to BPS assistance. As reflected by the project team, this approach is focused on delivering and streamlining access to the financial resources that buildings need. To get this started, staff have already begun a partnership with Cook County's Commercial Property Assessed Clean Energy (CPACE) program and the Illinois Climate Bank. Partnerships with financial institutions such as the Illinois Climate Bank are critical to our approach.

Other existing funding includes:

- Sustain Evanston program
- ComEd free assessments, special rates for all-electric buildings, incentives and savings programs
- Nicor free assessments, weatherization materials, energy efficiency loans, insulation and thermostat discounts, incentives, and rebates
- Low-Income Home Energy Assistance Program
- Illinois Home Weatherization Assistance Program
- Illinois Solar for All
- Illinois Shines
- Clean Energy Jobs and Justice Fund
- Other State grant programs
- Foundation and non-profit grants
- Direct support from financial institutions
- Federal tax incentives

Much of the replacements buildings would need to undertake, such as replacing a gas boiler, will happen regardless of this ordinance with the simple passage of time. This ordinance ensures that when it is time for replacement, it aligns with long-term goals. Additionally, not all building energy consumption improvements require capital investment; in the near term, buildings may find energy reductions in operational changes and improved maintenance. Improved efficiency means reduced utility costs. Energy efficiency projects can pay for themselves and save money over time.

In 2024, the Institute for Market Transformation and others published [estimates](#) from cities that have adopted building performance standards (BPS) ordinances; this research can help provide estimates of near-term costs to Evanston building owners as they work to comply with the interim deadline in 2030. Each ordinance in this research applies different timelines, savings requirements, and compliance metrics. The climate conditions, age, and construction type of the building stock, and building equipment characteristics in each location also influence the cost to building owners.

Washington, D.C., and Denver, Colorado, have implemented BPS policies that use EUI compliance metrics that require owners of covered buildings to make energy efficiency improvements that are similar to the types of improvements that Evanston's building owners may need to complete during the first 1-2 compliance periods. The savings timelines for

these two BPS policies align most closely with Evanston's proposed schedule of interim compliance deadlines.

Both locations had cost studies completed that estimated the cost of complying with the ordinance. On average, the Washington, D.C., study estimated it would cost approximately \$9 per square foot to achieve the required 20% energy savings. The study in Denver estimated an average of \$11 per square foot to achieve a mid-term target and \$17 per square foot to achieve approximately 30 percent savings.

Based on these findings, as well as data collected on costs to achieve BPS targets in other cities, a reasonable range for typical total costs to owners of buildings that currently have an EUI that exceeds the assumed 2030 threshold may fall between \$9/sf and \$15/SF. It is likely that the level of energy use in a significant number of covered buildings is already below the anticipated 2030 target. Owners of these buildings would not need to incur any costs for energy improvements during the first compliance period.

These estimates reflect the total cost of the improvements rather than the incremental net project cost to owners. Property owners incur ongoing maintenance and capital costs as they regularly improve their buildings and replace equipment (including heating, cooling, ventilation, and domestic hot water systems) at the end of their useful lives. Incremental costs are the difference between the cost of business-as-usual building improvements and the cost of high-performance equipment and materials that will be needed to achieve energy savings, which would be much lower than the total costs.

#### *Department of Energy Grant Requirements*

At this time, the City has a signed conditional award from the Department of Energy (DOE) for \$10.4M to aid in adopting and implementing this ordinance. Funds will be used to help buildings receive necessary technical assistance, increase staff capacity and community leadership, train relevant workforce participants, and measure the impacts of the ordinance.

To receive funds, the DOE has requirements reflected throughout the ordinance and policy approach. Most importantly, the DOE requires a zero-energy code equivalent, which is reflected in the three performance metrics for buildings to become efficient, all-electric, and procure renewable electricity. Evanston has been selected for the grant due to our inclusive community-led approach.

#### *Growing movement:*

Approximately 25% of the U.S. population is a part of a jurisdiction that has adopted or is considering a Building Performance Standard. Over [100 U.S. cities and counties](#) have adopted separate policies to curb the use of natural gas. Evanston would be the second community in the Midwest to adopt a BPS, preceded by St. Louis. Chicago is also a member of the BPS Coalition, which is committed to passing a similar ordinance. Oak Park has expressed interest but has not yet joined the BPS Coalition. Evanston is in contact with several municipalities that have adopted a BPS, such as Denver, Boston, and others, and thus has insights and lessons learned on each step of the implementation process from

earlier adopters. Since 01-O-25 was introduced, staff have learned of the following communities efforts to pass similar legislation:

- Newton, Massachusetts passed a building performance standards ordinance
- Watertown, Massachusetts is considering an ordinance
- West Hollywood, California released their draft ordinance
- Santa Monica, California is close to putting forward a draft ordinance

A matrix prepared by IMT is attached to this memo. It compares Building Performance Standards legislation across the U.S.

Developers are building more all-electric and efficient buildings in Evanston. The [South Boulevard affordable housing](#) development is designed to be all-electric, and [Lodge Evanston](#) is an all-electric adaptive reuse, demonstrating the desirability of sustainable and efficient housing to developers and tenants. Concurrently, the City has completed construction of the all-electric, zero-emission [Evanston Animal Shelter](#).

#### Legislative History:

The Energy and Water Benchmarking Ordinance 33-O-16 was adopted in 2016 to track and disclose building energy and water consumption in Evanston's buildings over 20,000 square feet to promote energy conservation, reduce greenhouse gas emissions, and improve overall environmental quality.

Staff and the Building Electrification Working Group have kept the Environment Board and Utilities Commission abreast of all developments pertaining to the ordinance, as reflected in their agendas and minutes. Additionally, staff has previously investigated and prepared to bring the Council a referral, "Ban natural gas hookups for new construction," that similarly considered electrification requirements for new construction and, by extension, major renovation. On December 12, 2024, the Environment Board voted in support of Ordinance 01-O-25; on December 20, 2024, the Utilities Commission voted in support of Ordinance 01-O-25.

Ordinance 01-O-25 was approved for introduction by an 8-0 vote on January 13, 2025. On January 27, 2025, it was held until the February 10, 2025 meeting. It was amended as described above on February 10, 2025, and tabled until the February 24, 2025 meeting. On February 24, the Ordinance was tabled until the March 10 meeting.

#### Attachments:

[REVISED 01-O-25 Healthy Buildings Ordinance with proposed amendments 3-5-2025](#)

[ORIGINAL 01-O-25 Healthy Buildings Ordinance.2.13.25](#)

[IMT-BPS-Matrix \(1\)](#)

[City Council HBO \(1\) \(1\)](#)

**1-O-25**

**AN ORDINANCE**

**Amending Title 4, Chapter 22 and Amending Title 2 to add Chapter 21 to the City Code**

**WHEREAS**, in December, 2016, the Evanston City Council passed Ordinance 33-O-16 to track and disclose building energy and water consumption in order to promote energy conservation, reduce greenhouse gas emissions, and improve overall environmental quality in buildings over 20,000 square feet in Evanston; and

**WHEREAS**, in November, 2018, the Evanston City Council accepted and placed on file the Climate Action and Resilience Plan (“CARP”), which established goals to reduce building energy consumption by 35% by 2035 and 50% by 2050 from 2005 levels, and to reach net-zero greenhouse gas emissions by 2050; and

**WHEREAS**, upon passage, CARP goals were science-based and aligned with the goals of the Intergovernmental Panel on Climate Change and since passage of CARP, CARP goals align with the State of Illinois goals; and

**WHEREAS**, Commonwealth Edison (“ComEd”) has a goal to be net-zero by 2050, and according to Section 220 of the Illinois Compiled Statutes 5/8-101, ComEd has an obligation to serve its customer base without discrimination and without delay, and charges or service to the public shall be just and reasonable; and

**WHEREAS**, in January, 2022, the Evanston City Council committed to inclusively design and implement building performance standards through the National Building Performance Standard Coalition; and

**WHEREAS**, in March, 2022, the Evanston City Council accepted and placed on file the Municipal Operations Zero Emissions Strategy to decarbonize city operations by 2035 to comply with CARP goals; and

**WHEREAS**, in April, 2022, the Evanston City Council passed Resolution 32-R-22 declaring a climate emergency and an immediate mobilization effort to reduce emissions; and

**WHEREAS**, 80% of greenhouse gas emissions in Evanston are attributable to building energy use, nearly half of emissions are attributable to buildings over 20,000 square feet, and natural gas use has remained approximately constant for 20 years and the emissions intensity of natural gas will never approach zero; and

**WHEREAS**, it is in the public's best interest to pursue a "just transition," defined by the International Labour Organization as "greening the economy in a way that is as fair and inclusive as possible to everyone concerned, creating decent work opportunities and leaving no one behind;" and

**WHEREAS**, equitable building decarbonization is complex and requires public, transparent, and participatory decision-making and rulemaking processes, which leveraging leverage the expertise of community members and consider the financial and practical impact on affected stakeholders; and

**WHEREAS**, at the conclusion of the public, transparent, and participatory decision-making and rulemaking processes, the City of Evanston City Council will amend this Ordinance to include the details pertaining to interim and final metric standards, the process for an alternative compliance pathway, and all additional details and regulations that the process identifies as necessary; and

**WHEREAS**, the Evanston City Council finds it in the best interest of the City of Evanston to adopt Ordinance 1-O-25.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:**

**SECTION 1:** Title 4, Chapter 22 of the Evanston City Code of 2012, as amended, is hereby further amended as follows:

**CHAPTER 22 – BUILDING ENERGY AND WATER USE BENCHMARKING AND BUILDING PERFORMANCE STANDARDS.**

**4-22-1. – SHORT TITLE.**

This Chapter is titled and may be cited as the “Building Energy and Water Use Benchmarking Ordinance.” and the “Healthy Buildings Ordinance.”

**4-22-2. – PURPOSE.**

The purpose of this Chapter is to promote the public health, safety, and welfare by requiring certain buildings within the City of Evanston to track and disclose building energy and water consumption, and requiring them to efficiently reduce greenhouse gas emissions while ensuring equitable decision-making. ~~in order to promote energy conservation, reduce greenhouse gas emissions, and improve overall environmental quality.~~

**4-22-3. – DEFINITIONS.**

For purposes of this Chapter the following definitions apply:

|   |  |
|---|--|
| <b><u>BASELINE PERFORMANCE VALUE.</u></b> | <u>For any performance metrics of any covered property, the value of the performance metrics in the baseline year defined by the City Manager or the City Manager’s designee.</u>  |
| <b><u>BASELINE YEAR.</u></b>              | <u>A twelve-month period no earlier than the first verified benchmarking year selected by the City Manager or the City Manager’s designee, in collaboration with the owner of the covered property, for each covered property for each performance metric.</u> |
| <b><u>BENCHMARK.</u></b>                  | To track and input a building’s energy and water consumption data and other relevant building information in any given calendar year as required by the benchmarking tool, to quantify the building’s total energy and water use.                              |

|  |  |
|--|--|
| <b><i>BENCHMARKING TOOL.</i></b>         | The website based software, commonly known as “ENERGY STAR Portfolio Manager,” developed and maintained by the United States Environmental Protection Agency. This term also applies to any successor system thereto, including any change or addition made to such tool by the United States Environmental Protection Agency.   |
| <b><i>CERTIFICATE OF OCCUPANCY.</i></b>  | The certificate issued by the Community Development Department allowing building occupancy or use, as required under the International Building Code adopted in City Code Section 4-2-1.   |
| <b><i>CERTIFIED PROFESSIONAL.</i></b>    | A professional engineer or a registered architect licensed in the State of Illinois, or another trained individual acceptable to the City Manager or his or her <u>the City Manager’s designee</u> .   |
| <b><i>CITY BUILDING.</i></b>             | Any municipally owned building or group of buildings that have the same property identification or index number (PIN), having a gross floor area of ten thousand (10,000) square feet or more, as identified by the City Manager or his/her designee.  |
| <b><i>COVERED BUILDING PROPERTY.</i></b> | <p>Any Type 1, Type 2, or Type 3 Covered Building as defined by this Chapter. The term “covered building” does not include any building whose primary occupancy use is classified as Assembly Group A-5 uses, Factory Group F uses, Storage Group S uses, High Hazard Group H uses, or Utility and Miscellaneous Group U uses, as defined by Chapter 3 “Use and Occupancy Classification” of the International Building Code adopted pursuant to City Code Section 4-2-1.</p> <p><u>Any building including:</u></p> <p>(A) <u>A building or group of [adjacent] buildings with the same owner(s), having a gross floor area or combined gross floor area of 20,000 square feet or more;</u></p> <p>(B) <u>A municipally-owned building or group of adjacent buildings having a gross floor area or combined gross floor area of 10,000 square feet or more.</u></p> <p><u>Excluding:</u></p> <p>(C) <u>Condominium buildings less than 50,000 square feet as defined in City Code Section 5-4-1-7, and co-op buildings;</u></p> <p>(D) <u>Individually owned units or spaces within a covered property that are sub-metered or otherwise subject to easy</u></p> |

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|  | <p><u>determination of the resource consumption attributable to each individual building, space, or group of buildings or spaces, may be treated as separate covered properties or exempted. The City Manager or the City Manager’s designee, in their sole discretion, shall determine whether and which buildings and spaces are subject to this exception;</u></p> <p><u>(E) Properties owned by the federal government;</u></p> <p><u>(F) Buildings for which a demolition permit has been issued;</u></p> <p><u>(G) Properties that did not have a certificate of occupancy or temporary certificate of occupancy for all twelve months of the year prior to the current benchmarking deadline;</u></p> <p><u>(H) Properties that:</u></p> <p style="padding-left: 40px;"><u>(i) have arrears of property taxes or water or refuse charges within the two (2) years prior to an interim or final performance standard, such that they are on the Cook County annual tax lien sale list; or</u></p> <p style="padding-left: 40px;"><u>(ii) have a court-appointed receiver in control of the property due to financial distress; or</u></p> <p style="padding-left: 40px;"><u>(iii) have a senior mortgage subject to a notice of default.</u></p> |
| <p><u>DISTRICT ENERGY SYSTEM.</u></p>  | <p><u>A system serving multiple covered properties and consisting of thermal energy generation, transfer, and distribution equipment providing thermal energy in the form of heat and/or heat rejection.</u></p>   |
| <p><u>DISTRICT THERMAL ENERGY.</u></p> | <p><u>Energy in the form of heat and/or heat rejection sources provided by a district energy system for use in a covered property’s space temperature, humidity control, or service hot water heating. District thermal energy shall be calculated as the energy input necessary to generate, transfer, and distribute thermal energy to the covered property based on a formula developed by the City Manager or the City Manager’s designee for allocating all energy consumed by the district energy system. To the extent that published and verified metered data is not available for any of the district energy system’s energy inputs or outputs, the formula shall assume maximum plausible levels of site energy use and greenhouse gas emissions.</u></p>   |
| <p><u>ENERGY AND</u></p>               | <p><u>ENERGY STAR Portfolio Manager web-based tool developed by</u></p>  |



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| <u>WATER BENCHMARKING TOOL.</u>        | <u>the United States Environmental Protection Agency, or any alternative system or tool approved by the City Manager or the City Manager's designee that rates the performance of a covered property in relation to similar buildings and accounts for the impacts of year-to-year variations, including but not limited to variations in weather, building size, and location.</u>   |
| <u>ENERGY PERFORMANCE SCORE.</u>       | The 1 to 100 numerical score produced by the <u>Energy and Water Benchmarking tool</u> , also known as "ENERGY STAR score", or any successor score thereto. The energy performance score assesses a building's energy performance relative to similar buildings, based on total energy use, operating characteristics, and geographical location.   |
| <u>ENERGY USE INTENSITY ("EUI").</u>   | The total annual energy consumed by a building per gross square foot.   |
| <u>EQUITY PRIORITIZED BUILDING.</u>    | <u>A covered property including but not limited to a public institution, religious institution, nonprofit organization, affordable housing, or other covered property so designated by the Healthy Buildings Accountability Board as an Equity Prioritized Building.</u><br><br><u>A covered property so designated by the Healthy Buildings Accountability Board as an Equity Prioritized Building. Such properties may include but are not limited to public institutions, religious institutions, nonprofit organizations, and affordable housing.</u> |
| <u>GREENHOUSE GAS (GHG) EMISSIONS.</u> | <u>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 oxide (N<sub>2</sub>O). Greenhouse gas emissions are expressed in metric tons of carbon dioxide equivalent (CO<sub>2</sub>e). In calculating greenhouse gas emissions, the City Manager or the City Manager's designee may include leakage and other emissions resulting from extraction, processing and distribution of fuels to the extent practical.</u>                  |
| <u>GROSS FLOOR AREA.</u>               | <u>The total covered property area, measured between the outside surface of the exterior walls of the covered property's building(s). The City Manager or the City Manager's designee shall publish guidance governing the calculation of gross floor area, including areas that shall be excluded from the calculation. "Gross Floor Area" as defined in the United States Environmental Protection Agency's ENERGY STAR Portfolio Manager, as amended.</u>  |
| <u>PERFORMANCE STANDARD.</u>           | <u>The numeric value of a performance metric, which covered properties shall achieve by the applicable time and each year thereafter.</u>   |

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| <u>NORMALIZED SITE ENERGY.</u>  | <u>The site energy use by the covered property normalized for weather and other characteristics within the limits of the capabilities of the energy and water benchmarking tool and normalized for other factors at the discretion of the City Manager or the City Manager's designee.</u>   |
| <u>NORMALIZED SITE ENERGY USE INTENSITY (EUI).</u>                      | <u>Is equal to normalized site energy divided by gross floor area.</u>   |
| <u>NORMALIZED ONSITE AND DISTRICT THERMAL GREENHOUSE GAS EMISSIONS.</u> | <u>Total annual greenhouse gas emissions attributable only to: 1) energy consumed on the covered property; or 2) energy consumed indirectly through use of district thermal energy.</u>  |
| <u>OWNER.</u>   | <p><u>Includes any of the following:</u></p> <p><u>(A) An individual or entity with legal title to a covered property;</u></p> <p><u>(B) The board of the owners' association, in the case of a covered property that is a condominium;</u></p> <p><u>(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;</u></p> <p><u>(D) The board of directors, in the case of a cooperative apartment corporation; or</u></p> <p><u>(E) An agent authorized to act on behalf of any of the above.</u></p> <p><u>"Owner" has the meaning ascribed to the term in City Code Section 6-18-3.</u></p> |
| <u>PERFORMANCE METRIC.</u>  | <u>Each of the three objectively verifiable numeric measures of building performance regulated by this ordinance: maximum normalized site energy use intensity, maximum normalized onsite and district thermal greenhouse gas emissions, and minimum renewable electricity procurement.</u>  |

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| <u>PROPERTY TYPE.</u>                     | A category of covered properties subject to the same interim and final performance standards, as defined by the City Manager or the City Manager’s designee. Covered properties within each property type shall have shared characteristics that facilitate the implementation and enforcement of the ordinance.  |
| <u>RENEWABLE ELECTRICITY.</u>             | Electricity generated from photovoltaic, solar thermal, geothermal energy, and wind systems located on- or off-site of the covered property.  |
| <u>REPORTED BENCHMARKING INFORMATION.</u> | Descriptive information about a building, its operating characteristics, and information generated by the benchmarking tool related to the building's energy consumption and efficiency. Reported benchmarking information includes, but is not limited to, the building identification number, address, gross floor area, energy performance score (if available), energy use intensity, water use and annual greenhouse gas emissions.  |
| <u>SITE ENERGY USE.</u>                   | Total energy consumed, regardless of source, annually at a covered property 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 in the discretion of the City Manager or the City Manager’s designee to be unrelated to the operation of the building(s). It includes, but is not limited to, electricity, natural gas, steam, fuel oil, diesel, propane, district thermal energy, and renewable electricity generated and consumed onsite, or other product, and shall be modified at the discretion of the City Manager or the City Manager’s designee. |
| <u>TYPE 1 COVERED BUILDING.</u>           | Any building or group of buildings that have the same property identification or index number (PIN), having a gross floor area of one hundred thousand (100,000) square feet or more, as identified by the City Manager or his/her designee.  |

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| <i><b>TYPE 2<br/>COVERED<br/>BUILDING.</b></i> | Any building or group of buildings that have the same property identification or index number (PIN), having a gross floor area of fifty thousand (50,000) square feet or more but less than one hundred thousand (100,000) square feet, as identified by the City Manager or his/her designee.   |
| <i><b>TYPE 3<br/>COVERED<br/>BUILDING.</b></i> | Any building or group of buildings that have the same property identification or index number (PIN), having a gross floor area of twenty thousand (20,000) square feet or more but less than fifty thousand (50,000) square feet, as identified by the City Manager or his/her designee, excluding condominiums as defined in City Code Section 5-4-1-7. |

#### **4-22-4. – BUILDING PERFORMANCE BENCHMARKING DISCLOSURE.**

(A) In accordance with the schedule under City Code Section 4-22-5, the owner of any covered building property must submit reported benchmarking information for the previous calendar year, using the benchmarking tool, as required by the City Manager or his/her the City Manager's designee.

(B) The City Manager or his/her the City Manager's designee must prepare and submit an annual report to the Mayor and the City Council for review and evaluation of the energy and water efficiency in covered buildings properties, including, but not limited to, summary statistics on the most recent reported energy and water benchmarking information.

(C) The City Manager or his/her the City Manager's designee is authorized to make reported benchmarking information readily available to the public, except to the extent allowable under applicable law, the City Manager or his/her the City Manager's designee will not make readily available to the public any individually-attributable reported benchmarking information from the first calendar year that a covered building property is required to benchmark.

#### **4-22-5 4-1. – BENCHMARKING REQUIREMENTS.**

(A) The owner of any covered building property must retain all information for the previous calendar year and input any and all descriptive information required by the benchmarking tool into the benchmarking tool for the previous calendar year. ~~The owner must input this information according to the following schedule:~~ Every covered property must annually provide data by June 30 for the previous calendar year.

1. ~~City Buildings and Type 1 Covered Buildings must provide data for the 2016 calendar year by June 30, 2017 and for every year thereafter by every subsequent June 30;~~

2. ~~Type 2 Covered Buildings must provide data for the 2017 calendar year by June 30, 2018 and for every year thereafter by every subsequent June 30; and~~
3. ~~Type 3 Covered Buildings must provide data for the 2018 calendar year by June 30, 2019 and for every year thereafter by every subsequent June 30.~~

~~(B) Exception. The City Manager or his/her designee may exempt from the benchmarking requirement the owner of a covered building that submits documentation establishing any of the following:~~

1. ~~The building is presently experiencing qualifying financial distress, as defined by any of the following: (1) the building is the subject of a qualified tax lien sale or public auction due to property tax arrearages, (2) the building is controlled by a court appointed receiver, or (3) the building has been acquired by a deed in lieu of foreclosure; or~~
2. ~~The building had average physical occupancy of less than fifty percent (50%) throughout the calendar year for which benchmarking is required; or~~
3. ~~The building is a new construction and the building's certificate of occupancy was issued during the calendar year for which benchmarking is required.~~

~~(C)~~(B) Retention of Records. Each owner is responsible for retaining the previous three (3) years' worth of benchmarking data, where applicable.

#### **4-22-6 4-2. – BUILDING DATA VERIFICATION.**

~~(A) *Data Verification.* Prior to the first benchmarking deadline in City Code Section 4-22-5 and prior to each third benchmarking deadline thereafter, the owner of a covered building must ensure that reported benchmarking information for that year is verified by a certified professional. Such verification must be in a form of a signed statement by a certified professional attesting to the accuracy of the information. The owner of a covered building must produce such statement for the most recent year in which verification of reported benchmarking information was required upon a written request by the City Manager or his/her designee.~~

Beginning January 1, 2026, the owner of a covered property must ensure that reported baseline performance values and reported data for interim performance standards and final performance standards are verified by a certified professional. Such verification must be in a form of a signed statement by a certified professional attesting to the accuracy of the information. The owner of a covered property must produce such statement for the most recent year in which verification of reported benchmarking information was required upon a written request by the City Manager or the City Manager's designee.

~~(B) *Exception.* The City Manager or his/her designee may exempt from the verification requirement the owner of a covered building that submits~~

~~documentation establishing that compliance with this Section will cause undue financial hardship.~~

#### **4-22-7 4-3. – SOLICITATION OF COMPLIANCE INFORMATION**

Within thirty (30) calendar days of a request by the building owner, each tenant of a unit in a covered building property must provide all information that cannot otherwise be acquired by the building owner and that is necessary for the building owner to comply with the requirements of ~~this Chapter~~ Section 4-22-4.

Any owner of a covered building property must request such information no later than March 1 of the years in which benchmarking is required by City Code Section 4-22-5 4-1. If the owner of a covered building property receives notice that a tenant intends to vacate a unit which is subject to the requirements of this Section, the owner must request the information specified in this Section within ten (10) calendar days of such notice, and the tenant must provide such information within thirty (30) calendar days of the request.

The failure of any tenant to provide the information required under this Section to the owner of a covered building property does not relieve such owner of the obligation to benchmark the building as provided in City Code Section 4-22-5 4-1, using all information otherwise available to the owner.

Failure of any tenant to provide the information required under this Section to the owner of a covered building property creates a rebuttable presumption that the owner, tenant, or both have not complied with the time limits specified in this Section.

If a tenant of a unit in a covered building property fails to provide information to the owner of the building as provided in this Section, the owner is deemed to be in compliance with City Code Section 4-22-5 4-1 with respect to the building if: (1) the owner proves that the owner has requested the tenant to provide such information as specified in this Section; and (2) the owner has benchmarked the building as provided in City Code Section 4-22-5 4-1, using all information otherwise available to the owner.

#### **4-22-8 4-4. – ENFORCEMENT.**

The City Manager or ~~his/her~~ the City Manager's designee is authorized to enforce this ~~Chapter~~ Section 4-22-4. The City Manager or ~~his/her~~ the City Manager's designee is also authorized to adopt rules and regulations for the proper administration and enforcement of this ~~Chapter~~ Section 4-22-4.

#### **4-22-9 4-5. – NOTICE OF VIOLATION.**

Whenever the City Manager or ~~his/her~~ the City Manager's designee determines that an owner fails to meet any requirement of this ~~Chapter~~ Section 4-22-4, ~~he/she~~ the City Manager or the City Manager's designee must give written notice to the owner. Such

notice must include, but not limited to, stating a statement that the owner failed to comply with the requirements of this Chapter Section 4-22-4 and that the owner has twenty (20) calendar days to comply with the applicable requirement. The notice must be in writing and may be served in person or sent by certified mail, return receipt requested. The notice must provide any recipient an opportunity to file a written request for a hearing with the City Manager or his/her the City Manager's designee by the owner within twenty (20) calendar days. Failure to respond to the notice or failure to comply with the applicable requirements requested therein constitutes a violation of this Chapter Section 4-22-4 by the owner.

#### **4-22-10 4-6. – HEARINGS.**

If a written request is filed within twenty (20) calendar days, an opportunity for a hearing with the City Manager or his/her the City Manager's designee must be afforded within ten (10) calendar days of receipt of the request. The hearing shall ~~will be conducted by the City Manager or his/her designee~~ affording the owner an opportunity to appear and show cause as to how they have complied with the provisions of this Chapter Section 4-22-4. The City Manager or his/her the City Manager's designee ~~will~~ shall make a final decision in writing, including the reasons for such decision, and will serve said decision on the owner subject to the provisions of this Chapter Section 4-22-4 within ten (10) calendar days after the conclusion of the hearing.

#### **4-22-11 4-7. - PENALTY.**

Any person who violates any provision of this Chapter Section 4-22-4 will be fined ~~one hundred~~ two hundred and fifty dollars (~~\$100.00~~ 250.00) for each such offense. Every month a violation continues will be deemed a separate offense.

#### **4-22-12. – SEVERABILITY.**

~~If any provision of this Chapter or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity must not affect other provisions or applications of this Chapter that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Chapter is severable.~~

#### **4-22-5. – HEALTHY BUILDINGS.**

##### **4-22-5-1. – BUILDING PERFORMANCE STANDARDS.**

(A) Each covered property in the City of Evanston must by 2050 meet and maintain the following final performance standards, as established by the rulemaking process:

1. Energy efficiency as measured by maximum normalized site EUI,
2. Zero normalized onsite and district thermal greenhouse gas emissions,

3. 100 percent of electricity usage sourced through renewable electricity.

(B) Property types shall be established such that every covered property shall fall within a property type.

(C) Beginning [June 30, 2031], each covered property shall annually demonstrate progress toward the final performance standard(s) by meeting the interim performance standard(s) set by the City Manager or the City Manager's designee for the covered property.

(D) The City Manager or the City Manager's designee, along with the Healthy Buildings Technical Committee, shall calculate each interim performance standard for each covered property, based on its property type designation(s), for every 60 month period, so that interim performance standards must be met with twelve months of reported data from the calendar years 2030, 2035, 2040, 2045, and 2050.

(E) Unless otherwise directed by the City Manager or the City Manager's designee, the final performance standards for any covered property containing multiple property types shall be calculated on a pro rata basis based on the square footage of each property type within the covered property, in accordance with the ENERGY STAR method of pro rata calculation, or an alternative methodology approved by the Healthy Buildings Technical Committee.

(F) At the direction of the City Manager or the City Manager's designee, a covered property that is redeveloped or that undergoes a substantial renovation or change of occupancy may be assigned to a different property type. The covered property shall be required to achieve the interim performance standards and final performance standard for the revised property type.

(G) At the discretion of the City Manager or the City Manager's designee, multiple covered properties may apply to be considered a campus or a portfolio. Any such adjustment shall be made in consultation with the Healthy Buildings Accountability Board.

#### **4-22-5-2. – ALTERNATIVE COMPLIANCE PATHWAY PLANS.**

(A) If an owner believes that a covered property cannot reasonably meet one or more of the applicable interim or final performance standards, then the owner may propose an Alternative Compliance Pathway Plan ("ACPP") to the City Manager or the City Manager's designee for their approval using the Alternative Compliance Pathway Plan Form. The ACPPs shall include, at a minimum, options for timeline adjustments, and/or adjustments or exemptions to one or more interim or final performance standards, such as achieving net-zero emissions rather than zero onsite emissions, on a covered property whose owner submits a request, together with documentation, in a



form prescribed by the City Manager or the City Manager's designee, at any time, but at least [180] days prior to any interim or final performance standard submission deadline.

(B) The City Manager or the City Manager's designee shall establish rules and deadlines governing ACPPs, including regarding whether the City Manager or the City Manager's designee shall publish some or all of ACPPs and criteria for such publication decisions. The rules governing ACPPs shall specify the requirements for any use of certified carbon offsets, verified carbon credits, payments to local decarbonization funds, or other mechanisms that may support alternative compliance. Once an ACPP for a covered property is approved by the City Manager or the City Manager's designee, then the covered property shall be in compliance with this ordinance so long as the terms of the ACPP are fulfilled. The ACPP may establish provisions to cure any noncompliance with the ACPP; if these are not included in the ACPP, then penalty provisions of section 4-22-5-6 of this ordinance shall apply. The ACPP constitutes a binding agreement between the owner of the covered property and the City Manager or the City Manager's designee and shall be recorded as a covenant that runs with the land in the property records for the covered property at the appropriate office for the recording of deeds.

(C) When seeking to sell a property, the owner of any covered property or any portion of a covered property subject to a ACPP, the owner shall include a reference to the ACPP in any listings, notices, advertisements of sale, term sheets, or contracts of sale. At least three weeks prior to listing a covered property or any portion of a covered property, the owner shall apply to City Manager or the City Manager's designee for a certification that the covered property is in compliance with this law and provide the certification to the buyer. City Manager or the City Manager's designee shall include in any certification a reference to any ACPP to which the covered property is subject.

(D) *Prohibition of Unnecessary Delays in Improvement.* Approval of the ACPPs is within the sole discretion of the City Manager or the City Manager's designee and will not be approved simply for the convenience of the owner or as a means to delay improvements that reasonably could be done in order to avoid the ACPP. However, no ACPP shall be unreasonably denied by the City Manager or the City Manager's designee. ACPPs may be granted based on financial hardship and/or occupancy as defined by the Healthy Buildings Accountability Board.

(E) Due to the large and complex nature of District Thermal Energy systems, the Owners of such systems shall have the right to propose an ACPP.

(F) The owner of a covered property may cancel, revise, or submit multiple ACPPs, subject to the aforementioned submission and approval processes.

(G) Decisions pursuant to this section by the City Manager or the City Manager's designee shall be appealable to the Healthy Buildings Accountability Board.

**4-22-5-3. – RULES AND GUIDANCE.**

The City of Evanston City Council will amend this Ordinance to include the details pertaining to interim and final metric standards, the establishment of fines, the application process for an alternative compliance pathway plan, and all additional details and regulations that the rulemaking bodies may propose as necessary. From time to time, the City Manager or the City Manager’s designee may issue such guidance and propose such additional rules as deemed in its discretion necessary to carry out the provisions of this ordinance, including but not limited to adjustments to off-site renewable energy, alternative compliance, reporting and data verification requirements for all submissions required by the City Manager or the City Manager’s designee.

**4-22-5-4. – ENFORCEMENT.**

No enforcement of performance standards shall begin until the rulemaking process is complete and interim and final performance standards are approved by City Council.

**4-22-5-5. – TRANSPARENCY.**

The City Manager or the City Manager’s designee shall publish each building’s final and interim performance standards and its performance against those standards across every performance metric beginning [2] years after the initial interim performance standards are determined.

**4-22-5-6. – OWNERSHIP OR LEASE CHANGES.**

Owners of covered properties shall comply with all applicable interim and final performance standards at the applicable compliance dates published by the City Manager or the City Manager’s designee. Responsibility to comply shall not be affected by changes in ownership, owner/tenant lease language or changes thereto. Owners shall clearly and prominently notify a tenant, in writing signed by the tenant, if the owner intends to pass on fines to a tenant. Such written, signed notification shall either be incorporated into a lease agreement or executed contemporaneously with the lease agreement.

**4-22-5-7. – PENALTY.**

(A) An owner whose covered property fails to perform to the level of an interim or final performance standard by the applicable compliance date shall be required to pay a fine. The fine should reflect:

1. the total number of interim or final performance standards with which an owner has failed to comply;
2. the assessed value of the covered property, for properties that are subject to routine assessments performed by the Cook County Assessor’; and
3. the magnitude of non-compliance under each performance metrics.
4. The financial impact on the covered property.

(B) If an owner fails to report one or more values for one or more performance metrics subject to one or more interim or final performance standards for a covered property, then, for purposes of calculating the fine, for each of the performance metrics that was not reported, the covered property shall be assumed to have performed at a level [30%] worse than the worst-performing property of the covered property's property type for that performance metric.

Any owner subject to a fine shall make required payments [annually] until such time as the covered property meets all of the applicable interim and final performance standards.

(C) At least ninety percent [ 90%] of fines collected under this ordinance shall be used to support performance improvements to privately-owned properties within Evanston. earmarked to a decarbonization fund established to provide financial assistance to covered properties that qualify on a need-basis.

#### **4-22-5-8. – MAINTENANCE OF RECORDS.**

Owners shall maintain records as the City Manager or the City Manager's designee determines necessary for carrying out the purposes of this ordinance, including, but not limited to, energy bills and reports or forms received from tenants and/or utilities, fines, ACPPs, and records demonstrating compliance with interim or final performance standards. Such records shall be preserved for a period of [6] years. At the request of the City Manager or the City Manager's designee, such records shall be made available for inspection and audit by the City Manager or the City Manager's designee. When a covered property is sold, the records shall be given to the new owner.

#### **4-22-6. – SEVERABILITY.**

If any provision of this Chapter or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity must not affect other provisions or applications of this Chapter that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Chapter is severable.

**SECTION 2:** Title 2 of the Evanston City Code of 2012, as amended, is hereby further amended to add Chapter 21, as follows:

#### **2-21-1. - HEALTHY BUILDINGS ACCOUNTABILITY BOARD.**

(A) Purpose.

The City Council establishes the Healthy Buildings Accountability Board

(HBAB) as an oversight body that is authorized to make recommendations and decisions related to decarbonization policies and programs, including but not limited to the Healthy Buildings Ordinance, for the following purposes:

1. To provide a community-led equity lens for climate action;
2. To provide a systematic means of considerations for equity-based adjustments to climate action taken by the City;
3. To provide a timely, fair, and objective review of the implementation of climate action taken by the City.

(B) Membership.

The Board shall consist of [7] members appointed by the Mayor, subject to confirmation by the City Council. At least [5] members of the Board shall be residents of Evanston.

The Healthy Buildings Accountability Board shall consist of nine (9) members. Three (3) of these members shall be those appointed to the Healthy Buildings Technical Committee (HBTC), that were nominated by building owners, as set forth in Section 2-21-2(C), and the remaining six (6) members shall be appointed by the Mayor and confirmed by the City Council, selected for their expertise in racial and social equity, housing, affordability, environmental justice, and climate action. If the three (3) HBTC members nominated by building owners do not wish to serve on the HBAB, then the remaining members shall be appointed by the Mayor and confirmed by the City Council. At least [5] members of the Board shall be residents of Evanston.

Board members shall be appointed to three (3) year terms, provided that the initial appointments will include 3 terms of 3 years, 2 terms of 2 years, and 2 terms of 1 year. Members whose appointed terms have expired shall be permitted to continue to serve until reappointed or replaced by a new appointee.

All members must possess a reputation of fairness, integrity, and a sense of public service.

No current elected official, City employee, or family member of any City employee may serve on the Board.

The Board's members shall possess expertise in racial and social equity, housing, climate action, electrical engineering, mechanical engineering, district energy systems, affordability, preservation, and/or environmental justice. They shall represent stakeholders including but not limited to large covered properties and the public, non-profit, and private sectors.

The Board's members shall reflect the demographic makeup of the City of Evanston population, including but not limited to race, color, religion, national origin, sex, sexual orientation, gender identity, marital status, age, source of income, and

physical or mental disability.

Members must commit to attending meetings regularly and participating in other initiatives of the Board.

Members shall be compensated for services rendered on a per meeting basis as established by rulemaking and subject to availability of funds.

(C) Procedures and Organization.

The Healthy Buildings Accountability Board shall:

1. Elect a chairperson to serve for the following calendar year with eligibility for reelection.
2. Elect a vice-chairperson to act whenever the chairperson is absent or unable to serve.
3. Establish its own rules of procedure that do not conflict with the City Code.
4. Establish such subcommittees as it deems necessary.
5. Provide quarterly updates during the rulemaking process, and provide a report for presentation to the City Council annually. Such report **may shall** :
  - a. incorporate comments on the adequacy of the Healthy Buildings Ordinance and the Climate Action and Resilience Plan as instruments of long-term climate action policy;
  - b. summarize the actions of the Board during the preceding calendar year; and
  - c. outline the program of the Board for the following year, including indicating joint programs to be carried out in cooperation with City Departments or other boards, committees, and commissions, including any City staff needs.
  - d. provide information on the impacts of the Healthy Buildings Ordinance on housing **and commercial** affordability and solutions identified to preserve affordability.
6. Adopt such other rules of procedure deemed necessary to conduct meetings and to carry out its duties, following

Roberts' Rules of Order in situations not covered by adopted rules.

Meetings shall be held in conformance with the Open Meetings Act.

Individual Board members shall not contact any individual or their representative with a matter that is pending or scheduled to be heard by the Board, unless it is in a public meeting.

(D) Powers and Duties.

The Board shall have the following powers and duties:

1. To approve the methods for prioritizing equitable building decarbonization including, but not limited to, spatial and demographic indicators, and establish a list of Equity Prioritized Buildings, to be reviewed periodically;
2. To develop a plan for allocating funds from fines collected under this Ordinance and to ensure that those funds are used to benefit Equity Prioritized Buildings;
3. To advise on the development of rules for implementing the Ordinance and any complementary programs or policies, including the establishment and structure of fines;
4. To review and issue recommendations on Alternative Compliance Pathway Plans requested by covered properties on the basis of financial hardship or other extenuating factors;
5. To recommend metrics and data to track the Ordinance's impact on disinvested communities and Equity Prioritized Buildings;
6. To report to the City Council on matters concerning the Healthy Buildings Ordinance or other similar policies;
7. To advise on community priorities that could be advanced through additional Alternative Compliance Pathway Plan requirements.
8. To provide guidance on community outreach and engagement; and
9. To advocate for synergistic policies and programs to aid in

equitable building decarbonization, and to review those policies and programs for equity implications.

(E) Appeal.

Determinations of the Board are appealable to City Council.

**2-21-2. - HEALTHY BUILDINGS TECHNICAL COMMITTEE**

(A) Purpose.

The City Council establishes the Healthy Buildings Technical Committee for the following purposes:

1. To develop rules and procedures implementing this Ordinance;
2. To provide community leadership in achieving necessary emissions reductions; and
3. To provide technical expertise on reaching this Ordinance's performance standards.

(B) Duration.

The Committee shall be dissolved after City Council has approved rules and procedures implementing this Ordinance in response to the Committee's recommendations, unless City Council votes to reauthorize the Committee.

(C) Membership.

The Committee shall consist of **5 six (6)** members ~~appointed by the Mayor~~, subject to confirmation by the City Council.

Two (2) members shall be nominated by the Neighborhood Building Owners Alliance and the Chicagoland Apartment Association. If after each group goes through the nomination process twice, but the nominees fail to be confirmed by the City Council, the Mayor shall nominate a replacement for any unfilled position, subject to City Council approval.

One (1) member shall be nominated by the Building Owners and Managers Association. If, after two (2) nomination attempts, a nominee fails to be confirmed by the City Council, the Mayor shall nominate a replacement, subject to City Council approval.

Three (3) at-large members shall be nominated by the Mayor.

At least 3 members of the Committee shall be residents of Evanston. Members of the Committee may also serve as members of the Healthy Buildings Accountability Board.

Committee members shall be appointed to a term which concludes when City Council has approved rules and procedures implementing this Ordinance in response to the Committee's recommendations, subject to reauthorization by City Council.

Members shall possess applicable technical **building** expertise in areas related to energy utilities, district thermal energy systems, **buildings**, energy systems, heating, ventilation, air conditioning, electrical engineering, electrification, mechanical engineering, building science and automation, machine learning, retro commissioning or energy management.

No current elected official, City employee, or family member of any City employee may serve on the Committee.

All members must possess a reputation of fairness, integrity and a sense of public service.

Members must commit to attending meetings regularly and participating in other initiatives of the Board.

Members shall be compensated for services rendered on a per meeting basis as established by rulemaking and subject to availability of funds.

(D) *Procedure and Organization.*

The Committee shall:

1. Elect a chairperson to serve for the following calendar year with eligibility for reelection.
2. Elect a vice-chairperson to act whenever the chairperson is absent or unable to serve.
3. Establish its own rules of procedure that do not conflict with the City Code.
4. Adopt such other rules of procedure deemed necessary to conduct meetings and to carry out its duties, following Roberts' Rules of Order in situations not covered by adopted rules.
5. Report to the Healthy Buildings Accountability Board.



Meetings shall be held in conformance with the Open Meetings Act.

(E) Powers and Duties.

The Committee shall have the following powers and duties:

1. To develop and recommend rules for implementing this Ordinance;
2. To recommend final performance standards for each property type;
3. To recommend interim performance standards for each property type;
4. To establish and periodically review and revise the methodology by which the City Manager or the City Manager's designee will evaluate proposed Alternative Compliance Plans that facilitates the achievement of the final performance standard by all covered properties;
5. To recommend, review, and approve the draft and final Alternative Compliance Plan Form created in collaboration with the City Manager or the City Manager's designee;
6. To review the results of City aid, including but not limited to evaluations on Equity Prioritized Buildings, and provide expert advice to the Board related to determinations of need for City aid;
7. To aid in community outreach and engagement;
8. To advocate for synergistic policies and programs to aid in equitable building decarbonization.
9. To recommend, if necessary, the engagement of outside expert consultants to assist in executing the Committee's Powers and Duties.
10. To define net zero greenhouse gas emissions and determine the allowance of certified carbon offsets, verified carbon credits, payments to local decarbonization funds, or other mechanisms to reach compliance.

**SECTION 3:** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 4:** If any provision of this Ordinance or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity

shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid application of this Ordinance is severable.

**SECTION 5:** This Ordinance shall be in full force and effect after its passage and approval.

**SECTION 6:** The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Introduced: \_\_\_\_\_, 2025

Approved:

Adopted: \_\_\_\_\_, 2025

\_\_\_\_\_, 2025

\_\_\_\_\_  
Daniel Biss, Mayor

Attest:

Approved as to form:

\_\_\_\_\_  
Stephanie Mendoza, City Clerk

\_\_\_\_\_  
Alexandra B. Ruggie, Corporation Counsel