

**CHAPTER 2019 – XXX**

**No.                    AN ORDINANCE IN AMENDMENT OF CODE OF ORDINANCES OF THE CITY OF PROVIDENCE REPEALING SECTION 2-2-45 OF CHAPTER 1, ARTICLE II, SECTION 2-45, AND ADDING CHAPTER 8 ½ ENTITLED “ENERGY AND SUSTAINABILITY”**

Enacted on \_\_\_\_\_

*Be it ordained by the City of Providence:*

**SECTION 1. Repeal of Article II, Sec. 2-45**

Article II, Sec. 2-45 of Chapter 1 of the Code of Ordinances of the City of Providence is hereby repealed.

**SECTION 2.**

The Code of Ordinances of the City of Providence is hereby amended to add Chapter 2, Article VIII ½ in its entirety:

**ARTICLE VIII ½ -ENERGY AND SUSTAINABILITY**

**Sec. 2-141.    Established.**

There is hereby established an Office of Sustainability.

**Sec. 2-142.    Director.**

There shall be a director of sustainability appointed by the mayor with the approval of the council. The Director of Sustainability shall be a full-time employee and shall not serve in any other capacity or position within the city. The Director of Sustainability shall have the status of a department head and shall serve at the pleasure of the mayor. The Director of Sustainability shall be a person holding at least a bachelor's degree from an accredited college or university, and who

has had a minimum of five (5) years' experience in the administration or supervision of developing and implementing a sustainability action plan or other relevant experience.

**Sec. 2-143. Purpose and Duties.**

(a) The Office of Sustainability will create policies and programs to create and promote a healthy, low-carbon, climate resilient and environmentally just city. The office will adopt and promote the following citywide goals:

- (1) A carbon neutral city by 2050, with the following interim targets:
  - a. 50% carbon free electricity by 2035 and 100% carbon free electricity by 2050, 30% of which is local renewable generation;
  - b. 48% of residential heating will be converted to heat pumps by 2035 and 90% will be converted by 2050;
  - c. 45% of commercial heating will be converted to heat pumps by 2035 and 85% will be converted by 2050;
  - d. 11% reduction in Vehicle Miles Traveled (VMT) by 2035 and a 20% reduction by 2050;
  - e. 43% of VMTs will be by vehicles powered by electricity by 2035 and 85% will be by 2050.
  - f. 100% of municipal buildings' electricity will be renewable by 2030;
  - g. 100% of municipal buildings' heating will be renewable by 2040;
  - h. 100% of the city's fleet and school buses will use renewable energy by 2040;
- (2) Access to housing with affordable, efficient and clean energy, while eliminating fossil fuel use in all buildings;
- (3) Healthy air and community spaces free from pollution, with a focus on port-area neighborhoods and other communities exposed to the highest rates of pollution;
- (4) A sustainable, zero-waste economy, with a focus on support for local businesses;
- (5) Access to clean and efficient public transportation and infrastructure that support walking and bicycling, and otherwise reducing carbon and co-pollutants;
- (6) Preparing the city for the impacts of climate change.

(b) The duties of the Office of Sustainability shall include, but are not limited to, the following:

- (1) Monitoring and documenting citywide carbon pollution and co-pollutants;

- (2) Monitoring progress for meeting goals and targets set forth in this ordinance and in the Sustainable Providence and Climate Justice Plans by maintaining a public-facing online dashboard that tracks the Plans' metrics and targets;
- (3) Reviewing the city's Capital Improvement Plan to ensure infrastructure and other investments are aligned with goals and targets set forth in this ordinance and in the Sustainable Providence and Climate Justice Plans;
- (4) Monitoring the implementation and enforcement of policies and ordinances aimed at improving sustainability;
- (5) Producing a comprehensive update to the Sustainability and Climate Justice Plans every five (5) years, based on the most up-to-date science and community input;
- (6) Producing a comprehensive greenhouse gas inventory every three (3) years, in accordance with the Global Protocol for Community-Scale Greenhouse Gas Emissions;
- (7) Partnering and collaborating with environmental justice communities;
- (8) Producing annual reports for the mayor and council including, but not limited to, the status of the City's progress in achieving each of the purposes set forth in paragraph 2 above, and all matters monitored and documented by the Office of Sustainability;
- (9) Developing and promulgating regulations to reflect and implement the purposes of the Office of Sustainability.

**Sec. 2-144. Sustainability Commission.**

- (a) There shall be a Sustainability Commission consisting of eleven (11) members, three (3) of whom shall be appointed by and serve at the pleasure of the mayor, three (3) of whom shall be appointed by and serve at the pleasure of the council; two (2) of whom shall be appointed by the by the Racial and Environmental Justice Committee (REJC) or other local Environmental Justice organization; two (2) of whom shall be appointed by youth-led organizations; and one (1) of whom shall be appointed by the Environmental Council of Rhode Island.
  - (1) Members shall serve for no more than six consecutive (6) years.
  - (2) Members shall have strong community ties and a wide range of expertise related to community needs and priorities, sustainability and climate policies.
  - (3) Membership of the Sustainability Commission should reflect diverse constituents and businesses.
- (b) The Sustainability Commission shall meet as often as necessary to fulfill the following responsibilities:

- (1) Advise the council, mayor, municipal departments, and other boards and commissions on the city's sustainability and climate agenda;
  - (2) Review the Office of Sustainability reports referenced in paragraph 3.(b) above prior to their submission to the mayor and the council;
  - (3) Produce an annual report to the mayor and the council that highlights sustainability accomplishments from the previous year, and community priorities going forward;
  - (4) Provide a level of accountability and transparency for the sustainability initiatives the city is currently implementing or planning to implement.
- (c) City departments, agencies and staff shall cooperate with the Commission by providing timely providing all relevant documents and information requested.

**Sec. 2-145. Building Energy Reporting Program**

(a) Definitions.

- (1) "Benchmarking information" shall mean information generated by the Benchmarking Tool as herein defined, including information about the physical property and its operational characteristics. The information shall include, but need not be limited to:
  - a. Property address;
  - b. Primary use type;
  - c. Gross floor area;
  - d. Energy Use Intensity (EUI);
  - e. Weather normalized source EUI;
  - f. Annual greenhouse gas emissions;
  - g. Annual energy use;
  - h. Where available, the energy performance score as defined herein;
  - i. Compliance or noncompliance with this Ordinance.
- (2) "Benchmarking Tool" shall mean ENERGY STAR Portfolio Manager, the internet-based tool developed and maintained by the U.S. Environmental Protection Agency to track and assess the relative energy performance of buildings nationwide. Should ENERGY STAR Portfolio Manager become unavailable for any reporting year(s), the reporting obligations herein will be suspended until such time it is again available or a comparable alternative is designated by the Office of Sustainability.
- (3) "Campus" shall mean a collection of buildings served by a central heating plant that is not owned or operated by a regulated utility.

- (4) “Covered Property” shall mean all buildings in the City that contain 10,000 or more gross square feet as defined herein and identified by the Tax Assessors Database. This includes municipal, residential, and non-residential buildings.
- (5) “Dwelling Unit” shall mean a single residential unit consisting of one or more rooms, occupied or arranged to be occupied as a residential unit separate from all other residential units within a building, and used primarily for residential purposes and not primarily for professional or commercial purposes.
- (6) “Director” means the Director of the Office of Sustainability or designee.
- (7) “Energy” shall mean electricity, natural gas, steam, hot or chilled water, heating oil, or other product for use in a building, or renewable electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities.
- (8) “Energy Performance Score” shall mean the numeric rating generated by the Benchmarking Tool.
- (9) “ENERGY STAR” shall mean the U.S. Environmental Protection Agency program related to improving energy efficiency in buildings and products.
- (10) “Gross Square Feet” shall mean the gross floor area of the property as defined by the U.S. EPA Portfolio Manager.
- (11) “Municipal Property” shall mean a building that contains 10,000 or more gross square feet that is owned by the City of Providence.
- (12) “Owner” shall mean:
  - a. An individual or entity designated in the records of the City Tax Assessor as the owner of a Covered Property;
  - b. An agent authorized by law to act on behalf of the owner of a Covered Property;
  - c. In the case of a condominium, the person or persons authorized by law to act on behalf of the condominium association or its board of directors, managers or trustees; and/or
  - d. In the case of a cooperative, the person or persons authorized by law to act on behalf of the cooperative.
- (13) “Tenant” shall mean a person or entity leasing, occupying or holding over possession of a Covered Property or Municipal Property.
- (14) “Utility” shall mean an entity that distributes, supplies, or transmits energy to Covered Properties.

(b) Establishment.

There is hereby established a Building Energy Reporting Program for Covered Properties with the purpose of helping the City conserve energy, reduce energy costs for businesses, and meet its goal to be carbon neutral by 2050 by requiring large building owners to benchmark their buildings' energy use and report this data to the City. The City will be responsible for reporting this information to the public in order to provide transparency to the marketplace.

(c) Purposes.

The purposes of the Program include the following:

- (1) To encourage efficient use of energy and to reduce greenhouse gas emissions by requiring annual measurement and disclosure to the City of building energy usage;
- (2) To enable more effective energy and climate protection planning by the City and others; and
- (3) To provide the public with information concerning the City's and others' energy consumption, improvement in energy efficiency, and reduction of greenhouse gas emissions.

(d) Benchmarking Required For Municipal Properties.

No later than May 15 of every year, the City, by and through its authorized representative, shall input the total Energy consumed by each Municipal Property during the previous calendar year, along with all other descriptive information required by the Benchmarking Tool.

(e) Benchmarking Required For Other Covered Properties.

Owners of Covered Properties shall report the total energy consumed by each covered property from January 1 through December 31 of the previous calendar, along with all other descriptive information required by the Benchmarking Tool, according to the following schedule:

- (1) For buildings that contain 50,000 or more gross square feet, by May 15, 2022 and by every May 15 thereafter;
- (2) For buildings that contain 20,000 to 49,999 gross square feet, by May 15, 2023 and by every May 15 thereafter;
- (3) For buildings that contain 10,000 to 19,999 gross square feet, by May 15, 2024 and by every May 15 thereafter.

- (4) Following the receipt of Certificate of Occupancy, a new Covered Property that has not yet accumulated 12 months of energy use data by the first applicable reporting deadline shall comply with this Ordinance in the following year.
  - (5) Campuses shall be permitted to report as one building.
- (f) Notification of Covered Properties.

Between September 15 and December 15 of each year, the City shall notify Owners of Covered Properties of their obligation to input Energy use into the Benchmarking Tool. By January 31 of each year, the City shall post a list of the addresses of Covered Properties. The list shall be published in the Office of the City Clerk and on the City's website for the Office of Sustainability.

- (g) Exemptions.

An owner of an otherwise "Covered Property" may seek an exemption from the requirements of this Ordinance for a reporting year if any of the following conditions apply:

- (1) None of the property was occupied for the entire calendar year required to be benchmarked;
- (2) A demolition permit for the entire property was issued and demolition work commenced during the calendar year;
- (3) The property did not receive energy services for the entire calendar year required to be benchmarked; and
- (4) Residential Property with 10 or fewer Dwelling Units.

An application for exemption shall be filed with the Director, together with an Affidavit signed under oath by the owner and such other supporting documentation as the Director requires, including verification from the City's Department of Inspections and Standards that the exemption applies.

- (h) Provision and publication of benchmarking information.

- (1) Owners shall annually provide Benchmarking Information to the Director, in such form as established by the Director, by the date provided by the schedule in subsection (d) above.
- (2) No later than October 15, 2021 and thereafter by October 15 of each year, the Director shall publish on the City's website information received for Covered Properties.

- (3) The Director shall make available to the public and update at least annually, the following information for each Covered Property:
  - a. The status of compliance with the requirements of this Ordinance;
  - b. Annual summary statistics including EUI, annual greenhouse gas emissions, and an energy performance score where available; and
  - c. A comparison of Benchmarking Information across calendar years.

(i) Direct upload.

Owners of Covered Properties may authorize an energy utility or other third party to report building-specific energy data on their behalf to the Director. Such authorization shall not remove the obligation of property owners to comply with reporting requirements.

(j) Energy assessments or actions.

The Director shall establish requirements for energy assessment or actions, in the manner set forth below. Each Covered Property not exempted by the Director shall complete either an energy assessment or action within five (5) years of its first energy reporting deadline and within every five (5)-year period thereafter. The owner may elect whether to complete an assessment or an action.

(k) Energy assessment or action requirements.

(1) In establishing requirements for energy assessments, the Director shall look to the most recent edition of Procedures for Commercial Building Energy Audits published by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) for guidance, and may vary these requirements based on building size, age, energy performance, and other building characteristics as well as incentives in utility-administered or other energy efficiency programs and changes in energy assessment technology.

(2) Energy actions may include investments in energy conservation measures, development of comprehensive energy management plans, retro commissioning of energy systems, or similar actions.

(3) Summary results of energy assessments and actions shall be reported to the Director in such form as the Director shall specify.

(l) Energy assessment and action exemptions.

The Director shall establish criteria for exempting buildings with high energy performance or significant energy improvement from the energy assessment or action requirement. Such criteria shall be based on:

(1) U.S. Environmental Protection Agency's ENERGY STAR performance ratings;



- (2) LEED (the Leadership in Energy and Environmental Design rating system published by the U.S. Green Building Council), Living Building, Zero Energy, or other green building designations;
  - (3) Patterns of significant and consistent improvements in energy efficiency or greenhouse gas emissions;
  - (4) A utility-approved comprehensive energy management plan or inclusion in an institutional comprehensive energy management plan as approved by the Director; or
  - (5) Other factors determined and approved by the Director that recognize the complexity of buildings and building management, other regulatory requirements, the costs and benefits of energy efficiency, and the City of Providence's climate and energy goals.
- (m) Maintenance of records.

Owners shall maintain and make available upon request the following records for a period of five (5) years:

- (1) The U.S. EPA Portfolio Manager Confirmation email evidencing the date the Owner submitted its report;
  - (2) Such other records as the Director determines is necessary for carrying out the purposes of this Ordinance, as reflected in the Director's regulations.
  - (3) All sellers of any and all Covered Property will provide the purchaser all information necessary for the purchaser to report Benchmarking Information in a timely manner.
- (n) Violations and Enforcement.

Any person or entity that violates any provision of this Ordinance shall be subject to the following civil remedies:

- (1) For the first violation, the City may issue a written warning to the building owner.
- (2) For a second or subsequent violation, the City may impose civil fines as follows for each building not reported:
  - a. For Buildings that contain 50,000 or more gross square feet, \$40.00 per day to a maximum of \$4,000.00 per year;
  - b. For Buildings that contain 20,000 or more gross square feet, \$30.00 per day to a maximum of \$3,000.00 per year;
  - c. For Buildings that contain 10,000 or more gross square feet, \$20.00 per day to a maximum of \$2,000.00 per year;

- (3) Upon request by the Director, the Office of Sustainability shall issue notices of violation in accordance with this section. Such violations shall be appealable to the Providence Municipal Court.
  - (4) Any person who makes a misrepresentation of a material fact in any document or filing governed by this Ordinance shall be subject to any and all other remedies available at law.
  - (5) In addition to any remedies provided above, the City may, by and through the Solicitor, seek injunctive relief in a court of competent jurisdiction.
  - (6) This subsection (n) shall not be amended unless a public hearing is convened by a committee of the Council.
- (o) Severability.

If any provision of this Ordinance shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

**SECTION 3.** This Ordinance shall take effect upon passage.