AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORLANDO, FLORIDA, RELATING TO ENVIRONMENTAL SUSTAINABILITY; CREATING CHAPTER 15 OF THE ORLANDO CITY CODE ENTITLED "SUSTAINABILITY"; ESTABLISHING A BUILDING ENERGY BENCHMARKING PROGRAM; PROVIDING DEFINITIONS, LEGISLATIVE FINDINGS, AND ; PROVIDING BENCHMARKING AND NOTIFICATION REQUIREMENTS FOR CERTAIN COMMERCIAL BUILDINGS; PROVIDING A SCHEDULE FOR COMPLIANCE; PROVIDING FOR PENALTIES FOR VIOLATIONS; PROVIDING FOR SEVERABILITY, CODIFICATION, CORRECTION OF SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

WHEREAS, energy used in buildings accounts for approximately three-fourths of Orlando's emissions of the gases that contribute to public health impacts and climate change, including sea-level rise, increasing temperatures, and more intense storms; and

WHEREAS, the three Water Management Districts responsible for managing water resources in Central Florida anticipate that by 2035 an additional 250 million gallons of water will be used per day in Central Florida beyond the Floridan Aquifer's sustainable capacity; and

WHEREAS, by 2018, the Green Works Orlando Community Action Plan (approved in August 2013) calls for a reduction of city-wide energy use by 5%, reduction of our carbon pollution by 25%, and reduction of gross potable water consumption per capita by 3%; and

WHEREAS, the Green Works Orlando Taskforce, comprised of a broad representation of leaders within the community recommended in 2013 that the City of Orlando adopt a building energy benchmarking and reporting, auditing, and retro-commissioning ordinance as a component of a more comprehensive set of actions to increase energy efficiency of buildings in Orlando, and reduce greenhouse gas emissions, such recommendations being accepted by City Council by approval of the 2013 Green Works Community Action Plan; and

WHEREAS, more than 15 major U.S. cities and counties, including New York, Chicago, Atlanta, Boulder, Kansas City and others, have adopted similar requirements, thus demonstrating the acceptability, legality and feasibility of such requirements; and

WHEREAS, energy and water use information and systemic management assists building owners in making cost-effective efficiency investments, thereby not only reducing greenhouse gas (GHG) and other air pollutant emissions from the burning of fossil fuels, but also reducing operating cost, improving indoor comfort, and providing resiliency against drought; and

WHEREAS, climate action and energy and water efficiency spurs Orlando's green economy and job creation; makes Orlando more attractive for people and businesses; and underlines Orlando's innovative leadership across Florida and the U.S.; and

WHEREAS, OUC has stated that effective energy and water efficiency policies can delay the need for costly new energy and water generation facilities that will likely increase utility costs for all ratepayers; and

WHEREAS, the City of Orlando was selected as one of only ten cities in the United States to participate in the City Energy Project (CEP), a national initiative to create healthier and more prosperous American cities by improving the energy efficiency of buildings through innovative and practical solutions that cut energy waste, boost local economies, and reduce harmful pollution; and

WHEREAS, the City of Orlando as a participant in the CEP is committed to pioneering actions that will serve as models for communities nationwide and around the world; and

WHEREAS, the Orlando City Council hereby finds that adopting this ordinance is in the best interest of the public health, safety, and welfare of the citizens of the City of Orlando.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF ORLANDO, FLORIDA, AS FOLLOWS:

SECTION 1. CH. 15, CREATED. Chapter 15, Code of the City of Orlando, Florida, is hereby created as follows:

<u>CHAPTER 15 - SUSTAINABILITY</u>

<u>PART I. BUILDING ENERGY BENCHMARKING</u>

<u>Section 15.01. Purpose and intent.</u>

<u>It is the intent of this Part I of this Chapter to make relevant and comparable information on building energy usage intensity readily available within the marketplace; reduce the emissions and air pollutants, including greenhouse gases, from energy consumption; encourage efficient use of energy and water resources; and promote further investments in the real estate marketplace by requiring reporting and transparency of energy usage in certain large buildings in accordance with this article.</u>

<u>Section 15.02. Definitions.</u>

<u>The following words, terms, and phrases, when used in Part I of this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:</u>

(1) “Anonymized data” means data that does not reveal names, addresses, or any other information that would identify an individual or business.

(2) “Audit report” means the final document produced by the energy auditor including but not limited to:

(a) the summary audit report,
(b) a general assessment of how the major energy consuming equipment and systems used within tenant spaces impact the energy consumption of the base building systems based on a representative sample of spaces as determined by the director, and
(c) narratives, photographs, and any additional explanatory information as required to describe the results of the audit.

(3) “Base building systems” means the systems or subsystems of a building that use or distribute energy and/or water and/or impact energy and/or water consumption, including:

(a) The building envelope,
(b) The HVAC (heating ventilating and air conditioning) systems,
(c) Conveying systems,
(d) Electrical and lighting systems,
(e) Domestic hot water systems,
(f) Water distribution systems,
(g) Plumbing fixtures and other water-using equipment, and
(h) Landscape irrigation systems and fountains.

Base building systems do not include:

(i) Systems or subsystems owned by residential tenants, condominium unit owners, or cooperative unit shareholders, or a system or subsystems for which such residential tenants, condominium unit owners, or cooperative unit shareholders bear full maintenance responsibility and that is within the residential tenant’s, condominium unit owner’s, or cooperative unit shareholder’s leased or owned space and/or exclusively serves such leased or owned space.
(ii) Systems or subsystems owned by a non-residential tenant or for which a non-residential tenant bears full maintenance responsibility; and that is within the tenant’s leased space and/or exclusively serves such leased space; and for which the tenant pays all the energy bills according to usage and demand as measured by a meter or sub-meter.
(iii) Systems or subsystems of any industrial, or manufacturing processes, or of an “amusement ride” as that term is defined in section 616.242(3)(a), Florida Statutes.

(4) “Benchmark” means to input and submit the total energy consumed for a property for the previous calendar year and other descriptive information for such property as required by the benchmarking tool. Total energy consumption shall not include separately metered uses that are not integral to building operations, such as broadcast antennas and electric vehicle charging stations, as determined by the director.

(5) “Benchmarking submission” means a subset of:

(a) Information inputted into the benchmarking tool; and
(b) Benchmarking information generated by the benchmarking tool, as determined by the director.

(6) “Benchmarking tool” means the U.S. Environmental Protection Agency’s ENERGY STAR Portfolio Manager, or any functionally equivalent or superior tool selected by the owner and approved by the director, used to track and assess the energy use of certain buildings relative to similar properties.

(7) “Building management system” means a computer-based system that monitors and controls a building’s mechanical and electrical equipment, such as HVAC, lighting, power, fire, and security systems.

(8) “Continuous commissioning” means an ongoing process of comparing data obtained through the building management system with analytic models; identifying problematic sensors, controls and equipment; and resolving operating problems, optimizing energy use and identifying retrofits for existing buildings.

(9) “Covered city property” means a property:

(a) That exceeds 10,000 gross square feet in total gross floor area; and
(b) That is owned by the city or for which the city regularly pays all or part of the annual energy bills.

(10) “Covered non-city property” means a property, other than covered city property:

(a) That exceeds 50,000 gross square feet in total gross floor area; or
(b) That has one or more buildings held in the condominium form of ownership that is governed by the same board of managers and that equals or exceeds 50,000 gross square feet in total combined floor area.

(11) “Covered property” means any covered city property or covered non-city property.

(12) “Current facility requirements” means the owner’s current operational needs and requirements for a building, including temperature and humidity set points, operating hours, filtration, and any integrated requirements such as controls, warranty review, and service contract review.

(13) “Director” means the director of the City of Orlando’s Office of Sustainability & Energy.

(14) “Energy” means electricity, natural gas, steam, or other product sold by a utility to a customer of a property, or renewable on-site electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses captured by ENERGY STAR Portfolio Manager.

(15) “Energy audit” or “audit” means a systematic process of identifying and developing modifications and improvements of the base building systems, including but not limited to alterations of such systems and the installation of new equipment, insulation or other generally recognized energy efficiency technologies to optimize energy use performance of the building and achieve energy savings, provided that such process shall be at least as stringent as or comparable to the Level 2 Energy Survey and Engineering Analysis of the most recent edition of Standard 211 Procedures for Commercial Building Energy Audits published by the American Society of Heating, Refrigerating and Air-conditioning Engineers Inc. (ASHRAE). Eligible audits such as the ASHRAE Building Energy Quotient (bEQ) and/or the free commercial audit offered by a utility provider will be allowed to comply with the audit requirements.

(16) “Energy auditor” means an individual possessing such certifications as determined by the director to perform or directly supervise individuals performing energy audits and to certify audit reports required by this ordinance. The auditor could be an employee or contractor hired by the reporting entity, an employee of the utility provider, or a third-party service provider who qualifies with the minimum criteria. Until such time as there is a US Department of Energy (DOE)-recognized standard establishing qualifications for persons performing energy audits and such standard has been adopted by the office, an energy auditor and any member(s) of the team that such auditor supervises shall have the certifications or qualifications as the office deems to be appropriate. After the establishment of such a DOE-recognized standard, the office may adopt the qualifications of the DOE-recognized standard with modifications as the office deems to be appropriate. In the interim, energy auditors shall have earned one or more of the following credentials and have two or more years of auditing experience: licensed Professional Engineers (PE), Certified Energy Managers (CEM), Certified Facilities Manager (CFM), Building Energy Assessment Professional (BEAP), Existing Building Commissioning Professional (EBCP), or Certified Energy Auditor (CEA).

(17) “Energy management system” means a system incorporating interior temperature sensors and a central processing unit and controls, which are used to monitor and control gas, steam, and oil usage, as is applicable.

(18) “ENERGY STAR score” means the 1-100 score or the Energy Use Intensity (EUI) numeric rating generated by the ENERGY STAR Portfolio Manager tool.

(19) “ENERGY STAR Portfolio Manager” means the tool developed and maintained by the U.S. Environmental Protection Agency to track and assess the relative energy performance of buildings nationwide.

(20) “Financial hardship” (of a property) means a property that:

(a) Had arrears of property taxes or water or wastewater charges that resulted in the property’s inclusion, within two years prior to the due date of a summary audit/retro-commissioning report, on the Orange County Property Appraiser’s annual tax lien sale list;
(b) Has a court appointed receiver is in control of the asset due to financial distress;
(c) Is owned by a financial institution through default by the borrower;
(d) Has been acquired by a deed in lieu of foreclosure; or

(e) Has a senior mortgage subject to a notice of default.

(21) "Office" means the City of Orlando Office of Sustainability & Energy.

(22) "Owner" means any of the following:

(a) An individual or entity possessing title to a covered property or covered city small property;
(b) The net lessee in the case of a property subject to a triple net lease;
(c) The board of managers in the case of a condominium;
(d) The board of directors in the case of a cooperative apartment corporation; or
(e) An agent authorized to act on behalf of any of the above.

(23) "Qualified Benchmarker" means an individual or entity that possesses a benchmarking certification or other credential or credentials approved by the director. Qualified Benchmarkers include Registered Architects (RAs), Professional Engineers (PEs) licensed in the State of Florida, Certified Energy Managers (CEM), Certified Facilities Managers (CFMs), Building Energy Audits Professionals (BEAPs), Individuals with a Certificate of Proficiency of Benchmarking (CPB), Real Property Administrators (RPAs), Facilities Management Administrators (FMAs), System Maintenance Administrators (SMAs), System Maintenance Technicians (SMTs), High Performance Managers (HPMs), Certified Healthcare Facility Managers (CHFMs), Certified Plant Maintenance Managers (CPMMs), or designated staff with at least three years of professional experience performing benchmarking and energy audits on similar types of buildings, or additional credentials approved by the director.

(24) "Retro-commissioning" means a systematic process for optimizing the energy efficiency of existing base building systems through the identification and correction of deficiencies in such systems, including, but not limited to, repairs of defects, cleaning, adjustments of valves, sensors, controls or programmed settings, and/or changes in operational practices.

(25) "Retro-commissioning measure" means a correction that has been identified during the analysis phase of retro-commissioning.

(26) "Retro-commissioning professional" means an individual or hired contractor, who shall not be on the staff of the property being retro-commissioned, authorized by the office to certify retro-commissioning reports required by this ordinance. Until such time as there is a U.S. Department of Energy ("DOE")-recognized standard establishing qualifications for persons who perform retro-commissioning and such standard has been adopted by the office, a retro-commissioning professional or member(s) of the team such professional supervises shall have such qualifications or certifications as determined by the office. After the establishment of such a DOE-recognized standard, the office may adopt the qualifications of the DOE-recognized standard with such modifications as the office deems to be appropriate.

(27) "Retro-commissioning report" means the final document produced by the retro-commissioning professional including, but not limited to,:

(a) Summary retro-commissioning report;

(b) Benchmarking output;
(c) List of repairs completed during investigation;
(d) List of deficiencies corrected, including, for each deficiency, the date of the correction, by whom the correction was made, the actual cost, projected annual savings, the net present value, and simple payback for each measure;
(e) Testing protocol, including a list of all equipment types tested, a list of the sample rates (percent of each type of equipment tested) for each equipment type tested, the testing methodology, including any diagnostic equipment used, the test results, and a list of integrated system testing performed; and
(f) Master list of findings, including for each, the name of the retro-commissioning measure, a brief description of the measure, recommended corrections, the benefits attained, estimated annual savings (energy and cost), the estimated implementation cost, the net present value, and the simple payback.

(28) “Shared benchmarking information” means information generated by the benchmarking tool and descriptive information about the physical property and its operational characteristics that is shared with the public. The information, as defined by ENERGY STAR Portfolio Manager’s glossary, must include, but is not limited to:

(a) Descriptive information
   1. Property address;
   2. Primary use type;
   3. Gross floor area;
(b) Output information
   1. Site energy use intensity (Site EUI);
   2. Weather normalized source energy use intensity (Source EUI);
   3. Total annual greenhouse gas emissions;
   4. The ENERGY STAR score, where available; and
(c) Compliance or noncompliance with this ordinance.

(29) “Space” means an area within a building enclosed by floor to ceiling walls, partitions, windows and doors.

(30) “Substantial improvement” means any repair, reconstruction, rehabilitation, addition, or improvement of a property, the cost of which equals or exceeds 50 percent of the market value of the property before the improvement or repair is started.

(31) “Summary audit report” means the abbreviated report certified by the energy auditor on a form determined by the office that shall include at a minimum:

(a) Information on the energy auditor and his/her team;
(b) The date the audit was completed;
(c) Property information (such as building address, building age, gross floor area as defined by ENERGY STAR Portfolio Manager’s glossary, number of buildings on the property, year of major renovation or remodel, etc.);
(d) Building ID number, as referenced in the benchmarking submission;
(e) The building’s benchmarking submission for the previous calendar year consistent with the United States Environmental Protection Agency (EPA)

Portfolio Manager tool or as otherwise established by the office;

(32) “Summary retro-commissioning report” means the abbreviated report certified by the retro-commissioning professional on a form determined by the office that shall include at a minimum:

(a) Retro-commissioning team information;
(b) The date the retro-commissioning was completed;
(c) Property information (such as building address, building age, gross floor area as defined by ENERGY STAR Portfolio Manager’s glossary, number of buildings on the property, etc.),
(d) Building staff information;
(e) List of repairs or modifications completed during investigation

(33) “System” or “subsystem” means a building assembly made up of various components that serve a specific function including but not limited to exterior walls, windows, doors, roofs, ceilings, floors, lighting, piping, ductwork, insulation, HVAC system equipment or components, electrical appliances and plumbing appliances.

(34) “Tenant” means a person or entity occupying or holding possession of a building, part of a building or premises pursuant to a rental or lease agreement.

(35) “Theme park” means an entertainment or resort complex comprised of at least 25 acres of land with permanent exhibitions and a variety of recreational activities, which has at least 1 million visitors annually, together with any dining and recreational facilities located adjacent to, contiguous to, or in close proximity to the theme park, as long as the owners or operators of the theme park, or a parent or related company or subsidiary thereof, has an equity interest in the dining or recreational facilities or is in privity therewith. Close proximity include an area within a 5-mile radius of the theme park complex. Excluded from this definition are (a) hotels, and (b) those administrative buildings, office buildings, and warehouses that support the theme park and its operations but are not typically open to theme park visitors..

(36) “Utility” means an entity that distributes and sells natural gas, electric, water, or thermal energy services for buildings.

Section 15.03. Benchmarking requirements.

(1) No later than May 1, 2017, and no later than every May 1 each year thereafter, each covered city property shall benchmark energy use for the previous calendar year by the entity primarily responsible for the management of such property, in coordination with the director. However, benchmarking is not required for a covered city property, if:

(a) the property does not have a certificate of occupancy or temporary certificate of occupancy for the full calendar year being benchmarked, or
(b) full demolition permit has been issued during the previous calendar year, provided that demolition work has commenced, some energy-related systems have been compromised and legal occupancy is no longer possible prior to May 1, or

(c) the property does not receive utility services.

(2) No later than May 1, 2018, and no later than every May 1 each year thereafter, the owner of a covered non-city property shall benchmark energy use of such property for the previous calendar year. However, benchmarking is not required for a covered non-city property, if:

(a) it meets any of the exemptions defined for a covered city property; or
(b) the director determines that, due to special circumstances unique to the applicant's facility and not based on a condition caused by actions of the applicant, strict compliance with provisions of this ordinance would cause undue hardship or would not be in the public interest; or
(c) the property qualifies as having a financial hardship; or
(d) the property is considered “industry,” “manufacturing,” or is part of a theme park; or
(e) substantially all of such non-city property is used for telecommunications infrastructure; or
(f) more than 3 meters are associated with the covered non-city property, and, (i) the electric utility does not provide whole-building data aggregation services, and, (ii) the owner does not have access to master meters or other means. Once such services are available from the utility, as determined by the office, such buildings will no longer be exempt from benchmarking requirements, and such buildings shall file initial benchmarking reports in the year following such data availability according to the schedule established in this part.

Any entity or owner requesting an exemption from benchmarking shall provide the director, by February 1 in the year for which the exemption is requested, any documentation reasonably necessary to substantiate the request or otherwise assist the director in the exemption determination. Any exemption granted shall be limited to the benchmarking submission date for which the request was made and does not extend to past or future submittals.

(3) The owner shall annually provide a benchmarking submission for each covered property to the director, in an electronic format through U.S. EPA ENERGY STAR Portfolio Manager, or as established by the director, by the date specified in this Part.

(4) Benchmarking must be performed by a “Qualified Benchmarker”, who shall enter such information into the benchmarking tool as a “Unique Identifier” for such property in order to verify that they possess the required qualifications.

(5) Before making a benchmarking submission, the Qualified Benchmarker shall run all automated data quality-checker functions available within the benchmarking tool, and shall correct all missing or incorrect information identified.

(6) Where the current owner learns that any information reported as part of the benchmarking submission is inaccurate or incomplete, the information so reported must be amended in the benchmarking tool by Qualified Benchmarker, and the

owner shall provide the director with an updated benchmarking submission performed by a Qualified Benchmarker within 30 days of learning of the inaccuracy.

Section 15.04. Benchmarking data collection and input.

An owner shall direct a Qualified Benchmarker to enter data into the Benchmarking Tool, in a manner generally as follows:

(a) Whenever possible, owners should benchmark their building(s) using whole-property utility data:
  i. Whole-property utility data can be obtained by a utility company; or by receiving data from all tenants, from master meters; or
  ii. If a utility company has made aggregated utility data available to owners before the reporting date of that calendar year, then an owner must benchmark using whole-property utility data for that utility.

(b) When an owner does not have whole-property information sufficient to fulfill these requirements and has made a reasonable effort to obtain from a tenant the information required, but that information has not been received from that tenant, the owner shall not be relieved of their benchmarking obligations, and must complete benchmarking using such alternate default values as provided by the then-existing US EPA Energy Star program. The director and Energy & Green Buildings subcommittee shall evaluate the quality of any alternate values and propose options that increase the quality of such values prior to December 31, 2018, and not less than once every 10 years thereafter.

Section 15.05. Sharing and analysis of benchmarking information.

(1) The director shall make available to the public on the internet the shared benchmarking information for the previous calendar year according to the following schedule:

(a) For each covered city property, no later than September 1, 2018, and each September 1 thereafter; and
(b) For each covered non-city property, no later than September 1, 2019, and each September 1 thereafter.

(2) Below is a summary table of the first compliance dates:

	Notification of Benchmarking Requirement by the City	Required Benchmarking and Reporting by the Owner	Transparency of Benchmarking Output Information issued by the City
Covered city property	December 1, 2016	May 1, 2017	September 1, 2018

Covered non-city property	December 1, 2017	May 1, 2018	September 1, 2019

(3) The city may provide non-anonymized data from benchmarking submissions to any utility serving a covered building or to any federal, state, or city-managed energy efficiency program, provided that the data will be used only for purposes of targeting incentives provided through energy efficiency programs, and provided that the city has first obtained the covered building owner's written or electronic permission to share the data with the utility or energy efficiency program. Where the building owner's permission can be granted electronically through acceptance of a default option, the city shall provide a clearly delineated option for owners of covered buildings to choose to opt out of granting this permission.

Section 15.06. Notification by the city for benchmarking requirements.

(1) By December 1 of each year that benchmarking requirements are in effect, the director shall publicly post on the City website a list of all covered properties that must provide a benchmarking submission to the director by the appropriate submission date in the following year.

(2) Such notification may occur electronically via a posting to the office website and/or by direct mail. Failure to provide such notification shall not relieve the property owner of the requirement to comply with the benchmarking and other requirements of this ordinance.

Section 15.07. Providing benchmarking information to the property owner.

(1) The owner of a covered property shall make all reasonable efforts to ensure the tenants within the covered property provide all information that cannot otherwise be acquired by the owner and that is needed by the owner to comply with the requirements of this ordinance.

(2) When the owner of a covered property receives notice that a nonresidential tenant is vacating a space, such owner shall request information relating to such tenant's energy use for any period of occupancy relevant to the owner's obligation to benchmark, but only if the utility does not provide this information through whole-building utility data. The landlord of such premises shall make all reasonable efforts to obtain energy use data from the vacating tenants within 30 days of the notice to vacate.

(3) When a covered property changes ownership, the previous owner must provide the new owner all information for the months of the calendar year being benchmarked during the time the previous owner was still in possession of the property.

(4) Where the owner is unable to benchmark due to the failure of a utility and/or any or all nonresidential tenants to report the information required by this ordinance, the owner shall complete benchmarking requirement using such alternate default values as established by the then-existing US EPA Energy Star program.

Section 15.08. Energy audit requirements.

(1) The owner of a covered property shall ensure that an energy audit or a retro-commissioning is performed on the base building systems of such property. In addition, an energy audit or retro-commissioning report must be generated, and a summary audit or retro-commissioning report must be filed with the office in accordance with the scheduling requirements below in section 15.09.

(2) An energy audit or retro-commissioning shall be performed by or under the supervision of an energy auditor or retro-commissioning professional. The audit process shall cover the base building systems and shall identify at a minimum all items defined in the audit or retro-commissioning report. The retro-commissioning process shall be performed in accordance with "*ANSI/ASHRAE Standard 202-2013 - Commissioning Process for Buildings and System*s"

(3) Nothing in this ordinance shall prevent an owner from performing an energy audit and retro-commissioning in a combined process, provided that all the requirements applicable to this ordinance are met.

(4) An energy audit or retro-commissioning is not required if any of the following are met:

(a) The property is exempt from benchmarking pursuant to section 15.03.
(b) The property provides evidence of financial hardship or has received a demolition permit within the previous year.
(c) The property has received an official ENERGY STAR benchmark score at or above 50.
(d) If there is no ENERGY STAR 1-100 score for the building type, a registered design professional shall submit documentation, as specified in rules promulgated by the director, that the property's energy use intensity (EUI) is equivalent to or better than the median performance of all covered buildings of its type.
(e) The covered property is currently certified under the Florida Green Lodging program, or LEED 2009 rating system for Existing Buildings or Operation and Maintenance: Existing Buildings Version 4 rating system, or future iterations of LEED published by the USGBC, or other comparable rating systems for existing buildings (e.g. Green Globes) as determined by the director.
(f) The covered property shows energy use improvement in their ENERGY STAR score by 10 points, or 15% or greater in equivalent EUI based on the median performance of all covered buildings of its type. This improvement will be compared to the baseline year that required the energy audit or retro-commissioning requirement. This exemption must be verified by a certified by an energy auditor or a retro-commissioning professional.
(g) The covered property is subject to continuous commissioning, provided the property owner attests to compliance with all criteria set forth in the rules promulgated by the office.

(5) For properties qualifying for exemptions under subsection 15.08(4), the owner shall file documentation, in such form and with such certifications as required by the office, establishing that the property qualifies for such an exemption.

Section 15.09. Due dates for summary audit or retro-commissioning reports and extensions of time.

Starting in 2020, the owner of a covered property that receives an ENERGY STAR score under 50, or equivalent EUI, is required to perform an energy audit, or a retro-commissioning, according to section 15.08, and shall file a summary audit or retro-commissioning report for such property no later than May 2025, and then once every five years thereafter.

By February 1 of the applicable year, an owner may apply for an extension of time to file a summary audit or retro-commissioning report if, despite such owner's good faith efforts, to be documented in such application, the owner is unable to complete the required audit or retro-commissioning prior to the scheduled due date for such report. The director may grant one such extension for up to one year. Extensions granted pursuant to this provision shall not extend the scheduled due dates for subsequent summary audit reports.

An owner may receive annual extensions of time to file a summary audit or retro-commissioning report based on financial hardship of the property.

Section 15.10. Notification by the city of energy auditing requirements.

(1) Starting in December 2020, and no later than every December 1 each year thereafter, following the benchmarking submission requirements, the director shall notify the owner of a covered property that receives an ENERGY STAR score under 50, or equivalent EUI, that he or she must perform an energy audit or a retro-commissioning, and that he or she must file a summary audit or retro-commissioning report for such property no later than May 2025.

(2) The director shall also notify the owner of the requirements of this section no less than one year prior to the calendar year in which the covered property's summary audit or retro-commissioning report is due and again in the calendar year in which such reports are due.

(3) Such notification may occur electronically via a posting to the office's website and failure to provide such notification shall not relieve the property owner of the requirement to comply with the applicable requirements of this ordinance.

(4) Below is a summary table of the first compliance dates:

	Notification of Energy Audit Requirement by the City	Due Date for 1st Energy Audit report by the Owner

Covered city property	December 1, 2020	May 1, 2025
Covered non-city property	December 1, 2020	May 1, 2025

Section 15.11. Annual benchmarking and energy audit report and analysis

(1) The director shall make available to the public on the City of Orlando website, and update at least annually, the following information:

(a) No later than December 1, 2018, and each December 1 thereafter, a report on the benchmarking of covered city properties, including an assessment of accuracy and issues affecting accuracy, summary energy consumption statistics, and trends observed, including an assessment of changes across the portfolio over time, and

(b) No later than December 1, 2019, and each December 1 thereafter, a report on the benchmarking of all covered properties, including an assessment of compliance rates, an assessment of accuracy and issues affecting accuracy, summary energy consumption statistics, and trends observed, including an assessment of changes across the portfolio over time.

(2) Beginning in 2025 and then again every year thereafter, the director shall make public on the City of Orlando website a report on the progress of auditing for all covered properties, including but not limited to, compliance rates, trends observed, correlations of benchmarking scores and recommended measures, the impact of audits on EUI's and ENERGY STAR Scores before and after, and recommendations on how the audit implementation could be improved or the uptake of energy conservation measures increased.

(3) Nothing in this ordinance shall prevent the director from including such information in an annual energy efficiency report covering the progress of all the city's energy efficiency ordinances and programs.

Section 15.12. Maintenance records of benchmarking, auditing, and retro-Commissioning.

(1) Building owners shall maintain records as the director determines is reasonably necessary for carrying out the purposes of this ordinance, including but not limited to the energy bills and reports or forms received from tenants and/or utilities. Such records shall be preserved for a period of at least three years and at all times may be kept in electronic form. At the request of the director, such records shall be made available for inspection and audit by the director.

(2) Property owners shall maintain a copy of the energy audit or retro-commissioning report, and summary audit or retro-commissioning report, on-site for a minimum of five years from the required submission date and at all times may be kept in electronic form. At the request of the director, such reports shall be made available for inspection.

Section 15.13. Violations and enforcement.

(1) Notwithstanding anything in this Code to the contrary, violations of this Part are punishable only in accordance with this section.

(2) A covered property that successfully complies with the benchmarking requirements in this Part shall be publicly posted on the City's website (as described in section 15.11) as "participating."

(3) A covered property that is exempt from benchmarking pursuant to this Part shall be publicly posted on the City's website (as described in section 15.11) as "exempt."

(4) A covered property that fails to comply with the benchmarking requirements in this Part shall be publically posted on the City's website (as described in section 15.11) as "eligible and not participating."

(5) A non-covered property that successfully complies with the benchmarking requirements in this Part shall be publicly posted on the City's website (as described in section 15.11) as "voluntarily participating."

(6) The director shall implement a suitable annual award and recognition for excellence in energy benchmarking.

Section 15.14. Appeals.

This Part shall be implemented by the director. In cases of uncertainty, or where the application of this Part to any particular person requires an interpretation of this Part, the director shall be responsible for such interpretation71. Upon written request of an applicant, the director shall render a written determination on any question of implementation or interpretation. Applicants may appeal written determinations of the director to the city's chief administrative officer. A notice of appeal must be filed with the chief administrative officer within 15 days of the director's determination. The chief administrative officer shall hold a hearing on the appeal within 20 days of the notice of appeal and he or she may consider any probative evidence provided by the applicant or the director. The chief administrative officer should give substantial deference to the determinations of the director and shall render a final decision within 15 days of the hearing. The decision of the chief administrative officer is hereby made the city's final agency action on the applicant's request for a determination.

Sec. 15.15. Energy and Green Building Subcommittee.

There is hereby established a subcommittee of the city's Green Works Advisory Committee to be known as the "Energy and Green Building Subcommittee". The subcommittee is hereby constituted as and shall undertake its work as a "Community Panel" pursuant to City of Orlando Policy and Procedure 161.4. A minimum of 5 members of the subcommittee shall be appointed by and serve at the pleasure of the mayor. The primary purpose of the subcommittee is to provide advice to the director in the implementation of this Part and to review proposed rules or policies of the director in the implementation of this Part. Before promulgating any rule or policy in the implementation of this Part, the director shall provide the proposed rule or policy to the subcommittee for review and comment for at least 30 days.

The Mayor shall appoint the members of the Energy & Green Building subcommittee that represent the following real estate sectors, but not limited to:

a. Commercial / Office
b. Hospitality
c. Retail
d. Multifamily/Residential
e. Health care and hospitals
f. Warehouse

Sec 15.16 Power to Suspend

The Council may suspend all or part of the requirements of this ordinance upon written findings that a significant obstacle interferes with the implementation, and may lift such suspension upon written finding that the obstacle has been removed.

SECTION 3. SEVERABILITY. If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 4. CODIFICATION. The City Clerk and the City Attorney shall cause the Code of the City of Orlando, Florida to be amended as provided by this ordinance and may renumber, reletter, and rearrange the codified parts of this ordinance, if necessary, to facilitate these changes.

SECTION 5. SCRIVENER'S ERROR. The City Attorney may correct scrivener's errors found in this ordinance by filing a corrected copy of this ordinance with the City Clerk.

SECTION 6. EFFECTIVE DATE. This ordinance takes effect immediately upon final passage.

DONE, THE FIRST READING, by the City Council of the City of Orlando, Florida, at a regular meeting, this ________ day of ____________________, 2016.

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Orlando, Florida, by the City Clerk of the City of Orlando, Florida, this ________ day of ____________________, 2016.

DONE, THE SECOND READING, AND ENACTED ON FINAL PASSAGE, by an affirmative vote of a majority of a quorum present of the City Council of the City of Orlando, Florida, at a regular meeting, this ________ day of ____________________, 2016.

BY THE MAYOR/MAYOR PRO TEMPORE OF
THE CITY OF ORLANDO, FLORIDA:

____
Mayor / Mayor Pro Tempore

ATTEST, BY THE CLERK OF THE
CITY COUNCIL OF THE CITY OF
ORLANDO, FLORIDA:

____
Amy Iennaco, Interim City Clerk

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
CITY OF ORLANDO, FLORIDA:

____
City Attorney

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