

ORDINANCE

AN ORDINANCE AMENDING CHAPTER 7 (“BUILDINGS”) OF THE OAK PARK VILLAGE CODE BY ADDING A NEW ARTICLE 15 (“ENERGY AND WATER BENCHMARKING”)

WHEREAS, the purpose of this Ordinance is to establish energy and water benchmarking reporting requirements for certain buildings located with the Village of Oak Park (“Village”); and

WHEREAS, Article VII, Section 6(a) of the Illinois Constitution of 1970, provides that the “powers and functions of home rule units shall be construed liberally,” and written “with the intention that home rule units be given the broadest powers possible,” *Scadron v. City of Des Plaines*, 153 Ill.2d 164 (1992), and this Ordinance is adopted pursuant to such authority; and

WHEREAS, the Village of Oak Park (“Village”) as a home rule unit of local government as provided by Article VII, Section 6 of the Illinois Constitution of 1970 has the authority to exercise any power and perform any function pertaining to its government and affairs except as limited by Article VII, Section 6 of the Illinois Constitution of 1970; and

WHEREAS, pursuant to its Constitutional home rule powers, the Village has authority to “perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals, and welfare,” Ill. Const art. 7 § 6, by adopting ordinances and promulgating rules and regulations that pertain to its government and affairs that protect the public health, safety, and welfare of its citizens; and

WHEREAS, the community greenhouse gas inventory identified reducing building energy use as one of the most important steps that Oak Park to reach the community’s adopted *Climate Ready Oak Park* goals and mitigating climate change; and

WHEREAS, benchmarking energy use and publicly disclosing the results can change how people behave in and operate buildings in ways that bring reductions in building energy consumption and energy bill savings; and

WHEREAS, the Village has determined to adopt this Ordinance pursuant to its home rule powers as set forth above.

NOW THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Oak Park, Cook County, Illinois, in the exercise of their home rule powers, as follows:

Section 1. Recitals Incorporated. The above recitals are incorporated herein as though fully set forth.

Section 2. Village Code Amended. Chapter 7 (“Buildings”) of the Oak Park Village Code is amended to add a new Article 14 (“Energy and Water Benchmarking”) to read as follows:

**ARTICLE 14
ENERGY AND WATER BENCHMARKING**

- 7-14-1: Purpose and Intent**
- 7-14-2: Definitions**
- 7-14-3: Benchmarking Schedule**
- 7-14-4: Collecting and Entering Benchmarking Data**
- 7-14-5: Benchmarking Reporting**
- 7-14-6: Benchmarking Exemptions**
- 7-14-7: Maintenance of Records**
- 7-14-8: Violations and Enforcement**

7-14-1: PURPOSE:

The purpose of this article is to establish energy and water benchmarking reporting requirements for certain buildings within the Village.

7-14-2: DEFINITIONS:

The following words and phrases whenever used in this article shall have the following meanings and are defined as follows:

AGGREGATED WHOLE-BUILDING DATA: Energy or water data that has been totaled for an entire property, which may include a single occupant or a group of separately metered tenants.

BENCHMARK: To input and submit the total energy and water consumed by a property, as well as other descriptive information of such Property, during the previous calendar year, as required by the Village. Total energy and water consumption shall not include separately metered uses that are not integral to building operations, as determined by the Director.

BENCHMARKING REPORT: A subset of information input into the benchmarking tool and benchmarking information generated by the benchmarking tool as determined by the Director.

BENCHMARKING TOOL: The United States Environmental Protection Agency's ENERGY STAR® Portfolio Manager® tool, or any additional or alternative tool adopted by the Director, used to track and assess the energy and water use of certain properties relative to similar properties.

CONDOMINIUM: A property that combines separate ownership of individual units with common ownership of other elements such as common areas.

COVERED VILLAGE PROPERTY: A property that:

- A. Exceeds 10,000 square feet in gross floor area; and
- B. Is owned by the Village; or

C. A property for which the Village regularly pays all or most of the annual energy and/or water bills.

COVERED NON-VILLAGE PROPERTY: A property other than a covered Village property that exceeds 10,000 square feet in Gross Floor Area.

COVERED PROPERTY: Any covered Village property or covered non-Village property.

A. Single family, duplex, and triplex residential homes and related accessory structures, or any other residential building with less than four units are exempt from the requirements of this article.

B. The State of Illinois and the Federal Government shall make reasonable efforts to comply with the requirements of this article with regard to a covered property which they own.

DATA QUALITY CHECKER: The function in ENERGY STAR® Portfolio Manager® that runs a set of basic data checks on properties to help identify possible data entry errors and to see whether a building differs from typical operational patterns.

DATA TRANSPARENCY: Information generated by the benchmarking tool, other descriptive information about a physical property and its operational characteristics that is shared with the public. This information shall include, but is not limited to:

A. Descriptive information:

1. Property address;
2. Primary use of a building;
3. Gross floor area;
4. Number of years a property has been ENERGY STAR® certified and the last certification date, if applicable;
5. Name of the property owner; and
6. Individual or entity responsible for the benchmarking report.

B. Output information:

1. Site and source energy use intensity;
2. Weather normalized site and source energy use intensity;

3. The ENERGY STAR® score when available;
 4. Total annual greenhouse gas emissions;
 5. Monthly energy use by fuel type;
 6. Indoor water use and water use intensity (consumption per gross square foot);
 7. Outdoor water use (where available);
 8. Total water usage;
 9. The ENERGY STAR® Water Score, where available; and
 10. Any property Notes, if needed, to explain a building's ENERGY STAR® score and/or operating characteristics.
- C. Status of compliance or noncompliance with the requirements of the article.

DEPARTMENT: The Development Customer Services Department.

DIRECTOR: The Development Customer Services Department Director or the Director's designee.

ENERGY: Electricity, natural gas, steam, or other products sold by a Utility to an owner of property, or renewable on-site electricity generation, for purposes of providing heating, cooling, lighting, water heating, or powering or fueling other end uses as recorded in the benchmarking tool.

ENERGY STAR® PORTFOLIO MANAGER®: The tool developed and maintained by the United States Environmental Protection Agency to track and assess the relative energy performance of buildings.

ENERGY STAR® Score: The 1-100 numeric rating generated by the ENERGY STAR® Portfolio Manager® tool as a measurement of a building's energy efficiency.

GROSS FLOOR AREA: The total property area, measured between the outside surfaces of the exterior walls of the building(s). This includes all areas inside the building(s) including but not limited to lobbies, Tenant areas, common areas, meeting rooms, break rooms, atriums (count the base level only), restrooms, elevator shafts, stairwells, mechanical equipment areas, basements, and storage rooms.

OWNER: Any of the following:

- A. An individual or entity possessing title to a property;

- B. The board of a condominium association in the case of a condominium;
- C. The condominium association in the case of a Condominium where the powers of an owners' association are exercised by or delegated to an association;
- D. The board of directors in the case of a cooperative apartment corporation; or
- E. An agent authorized to act on behalf of any of the above.

PROPERTY: Any of the following:

- A. A single building;
- B. One or more buildings held in a condominium form of ownership and governed by a single board of managers; or
- C. A campus of two or more buildings which are owned and operated by the same party, have a single shared primary function, and are:
 - 1. Behind a common utility meter or served by a common mechanical/electrical system, such as a chilled water loop, which would prevent an owner from being able to easily determine the energy use attributable to each of the individual buildings; or
 - 2. Used primarily for one of the following functions:
 - a. K-12 school;
 - b. Hospital;
 - c. Hotel;
 - d. Multifamily housing; or
 - e. Senior care community.

TENANT: A person or entity occupying or holding possession of a building, or part of a building or premises, pursuant to a rental or lease agreement.

UTILITY: An entity that distributes and/or sells natural gas, electricity, water, or thermal energy services for buildings.

7-14-3: BENCHMARKING SCHEDULE:

- A. The owner of a covered property shall ensure that a benchmarking report is generated, completed, and submitted to the Director annually for a covered property.
- B. The initial benchmarking report for a covered property shall be filed in accordance with the schedule in the table below. Subsequent benchmarking reports for each covered property shall be due by December 31 of each year thereafter.
- C. The Director shall make each covered property's data transparency information available to the public beginning the year after the property is first required to submit a benchmarking report in accordance with the schedule in the table below. Subsequent data transparency information will be made public each year thereafter.

Property	Initial Reporting Date	Data Transparency Year
Covered Village Properties ≥ 10k sq. ft.	June 1, 2023	2024
Covered Non-Village Properties ≥ 10k sq. ft.	December 31, 2023	2024

7-14-4: COLLECTING AND ENTERING BENCHMARKING DATA:

- A. Each year, an owner of a covered property shall collect and enter all data needed to benchmark the entire property for the previous calendar year into the benchmarking tool. Aggregated whole-building data for a property's energy and water use shall be compiled using one or more of the following methods:
 - 1. Obtaining aggregated whole-building Data from a utility;
 - 2. Collecting data from all tenants; or
 - 3. Reading a master meter.
- B. If the owner of a covered property does not have access to aggregated whole-building data (energy and water), such owner shall request aggregated whole-building data from each utility company that provides energy or water service to a property. If a utility does not provide aggregated whole-building data for energy ow water service, an owner of a covered property shall request energy and water data from any applicable tenants. An owner may also request authorization from any applicable tenants for the utility to share their data with an owner.
- C. Each nonresidential tenant located at a covered property shall provide an owner with all information necessary to comply with the requirements of this article that cannot otherwise be acquired by an owner within forty-five (45) days of a request.

D. Nothing in this article shall be construed to permit a property owner to use tenant energy usage data for purposes other than compliance with benchmarking report requirements, nor shall the reporting requirements of this article be construed to excuse property owners from compliance with federal or state laws governing direct access to tenant utility data from a responsible utility.

7-14-5: BENCHMARKING REPORTING:

A. For each covered property subject to this article, an owner shall submit a benchmarking report in an electronic format via the benchmarking tool annually by the date set forth in section 7-14-3 above.

B. The information included in a benchmarking report shall include the data information was entered in the benchmarking tool as set forth in sections 7-14-3 above for the previous calendar year.

C. An owner of a covered property shall ensure that data entered into the benchmarking tool shall be based on the aggregated whole-building data for energy and water service for the calendar year being reported.

D. Before submitting a benchmarking report, an owner shall run all data quality checker functions available within the benchmarking tool and shall verify that all data has been accurately entered into the benchmarking tool. In order for the benchmarking report to be considered in compliance with this article, an owner shall correct all missing or incorrect information as identified by the data quality checker prior to submitting the benchmarking report to the Director.

E. If an owner becomes aware that any information reported as part of the current year benchmarking report is inaccurate or incomplete, the owner shall amend the information reported within the benchmarking tool, and shall provide the Director with an updated benchmarking report within thirty (30) days of learning of the inaccurate or incomplete information.

7-14-6: BENCHMARKING EXEMPTIONS:

A covered property that meets one or more of the following conditions for the calendar year to be benchmarked may apply for an exemption from the benchmarking and data transparency requirements set forth in this article if:

A. The property did not have a certificate of occupancy or temporary certificate of occupancy from the Village or other applicable entity for the applicable full year; or

B. A demolition permit was issued for an applicable building located at a property during the prior calendar year; or

C. The property had an average physical occupancy rate of less than fifty percent (50%) over a given year; or

D. The benchmarking or data transparency information would disclose trade secrets as provided by applicable law; or

E. Buildings primarily used for manufacturing or other industrial purposes for which benchmarking results would not meaningfully reflect building energy use characteristics due to the intensive use of process energy. "Process energy" refers to energy used in the actual manufacturing, production, or processing of a good, commodity, or other material.

7-15-7: MAINTENANCE OF RECORDS:

An owner shall maintain the data submitted through the benchmarking tool and supporting data, including but not limited to, the energy and water bills and reports or forms received from tenants and/or utilities pursuant to this article. Such records shall be preserved for a period of three (3) years. At the request of the Director, such records shall be made available for inspection by the Director or the Director's designee.

7-14-8: PENALTY

Any owner, entity or person in violation of any provision of this article shall be fined in accordance with the provisions of section 1-1-5 of this Code.

Section 3. Severability and Repeal of Inconsistent Ordinances. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance. All ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4. Effective Date. This Ordinance shall be in full force and effect after its approval, passage and publication as provided by law.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

ADOPTED this 6th day of February, 2023, pursuant to a roll call vote at follows:

Voting	Aye	Nay	Abstain	Absent
President Scaman				
Trustee Buchanan				
Trustee Enya				
Trustee Parakkat				
Trustee Robinson				
Trustee Taglia				
Trustee Wesley				

APPROVED this 6th day of February, 2023.

Vicki Scaman, Village President

ATTEST

Christina M. Waters, Village Clerk

Published in pamphlet form this 6th day of February, 2023.

Christina M. Waters, Village Clerk