

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE related to regulating greenhouse gas emissions in larger existing nonresidential and multifamily buildings; establishing and imposing greenhouse gas emissions intensity targets and reporting requirements; prescribing penalties; adding a new Chapter 22.925 to the Seattle Municipal Code; amending Chapter 22.920.010, 22.920.020, 22.920.030, 22.920.120, 22.920.130, 22.930.010, 22.930.020, 22.930.040, 22.930.050, 22.930.120, and 22.930.140 of the Seattle Municipal Code; adding Section 22.920.220 to the Seattle Municipal Code; and repealing Section 22.920.040 of the Seattle Municipal Code.

..body

WHEREAS, The Intergovernmental Panel on Climate Change (IPCC) *Sixth Assessment Report:*

Climate Change 2021 finds that “Global warming of 1.5°C and 2°C will be exceeded during the 21st century unless deep reductions in carbon dioxide (CO₂) and other greenhouse gas emissions occur in the coming decades”; and

WHEREAS, Seattle is already experiencing impacts from climate change including more severe and frequent extreme heat and wildfire smoke events, drought, heavy precipitation, sea level rise, and flooding; and

WHEREAS, the buildings account for thirty-seven percent of the City’s core greenhouse gas (“GHG”) emissions and Seattle has a goal to reduce building GHG emissions by thirty-nine percent from 2008 levels and reach zero net GHG emissions by 2050; and

WHEREAS, in 2019 Council adopted Resolution 31895 committing to creating a Green New Deal for Seattle further calling for Seattle to decarbonize at an accelerated pace while prioritizing investment in communities historically most harmed by economic, racial, and environmental injustice; and

1 WHEREAS, in 2019 the Washington Legislature enacted the Clean Energy Transformation Act,
2 chapter 19.405 RCW, committing Washington to GHG emissions-neutral electricity by
3 2030 and 100% renewable or non-emitting electricity by 2045; and

4 WHEREAS, in 2021 the Washington Legislature enacted the Climate Commitment Act, chapter
5 70A.65 RCW, progressively lowering caps on carbon emissions for 2030 and 2040 to
6 net-zero carbon emissions by 2050 and covering businesses such as fuel suppliers, natural
7 gas and electric utilities, district thermal energy providers, and other energy providers;
8 and

9 WHEREAS, in 2019 the Washington Legislature enacted the State Energy Performance
10 Standard, 19.27A.200-240 RCW, establishing energy efficiency targets, efficiency
11 reduction planning, and operations and maintenance requirements for large commercial
12 buildings over 50,000 square feet beginning in 2026, as well as an early adoption
13 incentive program; and

14 WHEREAS, in 2021 the Washington Legislature passed the Clean Buildings Expansion Bill,
15 19.27A.250 RCW, which requires commercial buildings over 20,000 to 50,000 square
16 feet and multifamily buildings over 20,000 square feet to conduct energy management,
17 operations and maintenance planning consistent with the Clean Buildings Performance
18 Standard, and directs the Department of Commerce by 2023 to adopt rules for the
19 requirements beginning in 2027 and by 2030 to adopt rules for performance standards;
20 and

21 WHEREAS, the Seattle Energy Code improves the energy efficiency and reduces GHG
22 emissions in new construction and substantial alterations of commercial buildings, which
23 includes multifamily buildings over three stories; and

1 WHEREAS, the City has committed to achieving net-zero carbon by 2035 in its own municipal
2 building portfolio; and

3 WHEREAS, the City finds that establishing GHG emissions reduction targets on large
4 nonresidential and multifamily buildings is projected to reduce GHG emissions from
5 Seattle buildings by twenty-seven percent; and

6 WHEREAS, building owners may make meaningful reductions in building-related GHG
7 emissions through a variety and combination of actions such as: employing energy-
8 efficient measures, using less GHG emissions-intensive fuels like electricity, waste heat,
9 renewable natural gas, biofuels, or green hydrogen; and

10 WHEREAS, decarbonizing Seattle buildings will require an increase in skilled trades, and the
11 elimination of climate pollution from existing nonresidential and multifamily buildings
12 over 20,000 square feet is specifically projected to create 150-270 annual jobs or more in
13 clean energy and construction and the City is investing in programs and funding to
14 support a just transition; and

15 WHEREAS, in 2022 the City established a Seattle Clean Buildings Accelerator support program
16 that provides training and technical support for building owners to improve energy
17 efficiency and reduce climate pollution, with a prioritization on buildings serving people
18 with low or no incomes and communities historically most harmed by economic, racial,
19 and environmental injustice; and

20 WHEREAS, the 2023 adopted and 2024 endorsed budgets include over \$11 million to
21 implement a Seattle Building Emissions Performance Standard and to provide technical
22 and financial support for building owners, and the City is pursuing additional funding
23 available through the federal Bipartisan Infrastructure Law and Inflation Reduction Act,

1 state grants, and other sources, for subsidized low-income housing, unsubsidized low-rent
2 housing, nonprofits and other facilities serving frontline communities; and

3 WHEREAS, mitigating for climate change and ensuring housing affordability are both necessary
4 for a thriving city and the City already has multiple tenant protection laws to complement
5 this legislation, including the Housing & Building Maintenance Code, Rental
6 Registration & Inspection Ordinance, Just Cause Eviction Ordinance, Rental Agreement
7 Regulation, Economic Displacement Relocation Assistance, and Tenant Relocation
8 Assistance Ordinance;

9 NOW, THEREFORE,

10 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

11 Section 1. A new Chapter 22.925 is added to the Seattle Municipal Code as follows:

12 **CHAPTER 22.925 BUILDING EMISSIONS PERFORMANCE STANDARD**

13 **22.925.010 Applicability**

14 A. This Chapter 22.925 applies to all covered buildings not otherwise exempt under
15 Section 22.925.010.C or D or elsewhere in this Chapter 22.925.

16 B. This Chapter 22.925 applies to greenhouse gas emissions from the energy used by
17 covered buildings, including but not limited to: electricity, natural gas, liquified or compressed
18 gas, distillate oil, heating oil, renewable natural gas, hydrogen, and district thermal energy.

19 C. This Chapter 22.925 shall not apply to covered buildings as defined in Section
20 22.925.020 that are covered entities as defined in RCW 70A.65.010 and subject to a cap on
21 greenhouse gas emissions in RCW 70A.65.060.

22 D. This Chapter 22.925 shall not apply to industrial buildings as defined in 22.925.020.

23 **22.925.020 Definitions**

1 The following words and phrases used in this chapter shall have the meanings set forth in
2 this Section:

3 “Alternative compliance payment” or “ACP” means a payment that a building owner
4 pays to the City to comply with this Chapter 22.925 in lieu of meeting GHGITS.

5 “Alternate GHGIT” means the GHGIT in kgCO₂e/SF/yr established from the baseline
6 GHGI of a specific covered building, building portfolio, district campus, or connected buildings
7 and calculated according to Section 22.925.080.

8 “Baseline GHGI” means the greenhouse gas emissions intensity (“GHGI”) in
9 kgCO₂e/SF/yr for a particular twelve-month period ending December 31 for a covered building,
10 building portfolio, district campus or connected buildings used to calculate compliance with
11 certain alternative compliance options.

12 “Building activity type” means a building or building space type use listed in Table A for
13 22.925.070 such as office, retail, hotel, and multifamily.

14 “Building owner” means an individual or entity possessing a fee interest in a covered
15 building. Where a condominium is subject to this chapter 22.925, “building owner” means the
16 owners' association, except that where the powers of an owners' association are exercised by or
17 delegated to a master association, "building owner" means the master association.

18 “Building portfolio” means two or more covered buildings on one or more lots, all owned
19 by the same public, private, or nonprofit entity. Building portfolios may include district
20 campuses and/or connected buildings. For the purposes of this definition, a building management
21 company does not constitute an owner.

1 “Carbon dioxide equivalent or “CO₂e” means the metric used to compute the combined
2 emissions from carbon dioxide (CO₂), methane (CH₄) and nitrous oxide (N₂O) on the basis of
3 their global warming potential.

4 "Carbon Offset” means a reduction or removal of emissions of carbon dioxide or other
5 greenhouse gases made in order to compensate for emissions made elsewhere. Offsets are
6 measured in tons of carbon dioxide equivalent (CO₂e).

7 "Certificate of occupancy" means the certificate issued by the building official after final
8 inspection, allowing the building to be occupied.

9 “City” means The City of Seattle.

10 “Compliance GHGI” means the greenhouse gas emissions intensity or “GHGI” in
11 kgCO₂e/SF/yr for a particular twelve-month period for a covered building, building portfolio,
12 district campus or connected buildings used to show compliance with the Greenhouse Gas
13 Intensity Target.

14 “Condominium” means real property, portions of which are designated for separate
15 ownership and the remainder of which is designated for common ownership solely by the owners
16 of those portions.

17 “Connected buildings” means two or more covered buildings owned by the same building
18 owner that are situated on the same or adjacent parcels and have shared mechanical or metering
19 equipment such as energy meters, building controls, or heating, ventilation, or share a thermal
20 envelope because they are physically connected.

21 “Covered building” means a nonresidential building or multifamily building as defined in
22 this Section 22.925.020.

23

1 “Director” means the Director of the Office of Sustainability and Environment or the
2 director’s designee and includes any person or agency or representative of such person or agency
3 to whom authority is delegated under this Chapter 22.925.

4 “District campus” means two or more covered buildings on the same or adjacent parcels
5 owned by the same building owner that is served by a campus district heating, cooling, water
6 reuse, and/or power system.

7 “District campus heating and/or cooling system” means a district heating and/or cooling
8 system that serves a district campus.

9 “District thermal energy” means thermal energy provided by a district thermal energy
10 provider distributed to two or more buildings through a network of pipes from a central plant or
11 combined heat and power facility for heating or cooling.

12 "District thermal energy provider" means any private person, company, association,
13 partnership, joint venture, or corporation engaged in producing, transmitting, distributing,
14 delivering, furnishing, or selling thermal energy to buildings owned by a person or entity other
15 than the district thermal energy provider.

16 “Energy” means electricity, including electricity delivered through the electric grid and
17 electricity generated at the building premises using solar, wind, or other resources; natural gas;
18 combined heat and power; district thermal energy; propane; fuel oil; wood; coal; or other fuels or
19 thermal sources used to meet the energy loads of a building.

20 "Energy benchmarking" means the assessment of a building's energy use, greenhouse gas
21 emissions, and efficiency as required in Chapter 22.920.

1 "ENERGY STAR Portfolio Manager" means the tool developed and maintained by the
2 United States Environmental Protection Agency that enables account holders to track and assess
3 the energy, water, waste, and greenhouse gas emissions performance of their buildings.

4 "Financial distress" means one of the following:

5 a. A covered building had arrears of property taxes or water or wastewater
6 charges that resulted in the building's inclusion, within the prior two years, on a King County
7 annual tax lien sale list.

8 b. A covered building has a court-appointed receiver in control of the asset
9 due to financial distress.

10 c. A covered building is owned by a financial institution through default
11 by a borrower.

12 d. A covered building has been acquired by a deed in lieu of foreclosure
13 within the previous twenty-four months.

14 e. A covered building has a senior mortgage subject to a notice of default.

15 f. Other conditions as determined by rule.

16 "Greenhouse gas" or "GHG" means carbon dioxide, methane, nitrous oxide,
17 hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

18 "Greenhouse gas emissions" or "GHG emissions" means Scope 1 direct emissions from
19 stationary (non-transport) combustion of fossil fuels (e.g., boilers, furnaces, or domestic hot
20 water) serving a building or building(s), and Scope 2 indirect emissions from the purchase of
21 electricity, steam, hot water, or chilled water that are delivered through a grid or district thermal
22 energy source, as defined by the United States Environmental Protection Agency, and are
23 reported as CO₂e. Greenhouse gas emissions does not include fugitive emissions directly

1 released into the atmosphere from various types of equipment and processes (e.g., refrigerants,
2 industrial gases, fire suppression systems), as defined by the United States Environmental
3 Protection Agency.

4 “Greenhouse gas emissions factor” or “emissions factor” means the CO₂e emissions
5 associated with an energy source and reported in kgCO₂e per thousand British thermal units
6 (kgCO₂e/kBtu).

7 “Greenhouse gas emissions intensity” or “GHGI” means a measurement of a covered
8 building's greenhouse gas emissions from its energy use relative to its size. A building's GHGI is
9 the sum of each energy fuel source consumed in one year multiplied by the emissions factor of
10 that fuel, divided by the gross floor area of the building. GHGI is measured as a value of kgCO₂e
11 units per square foot per year (kgCO₂e/SF/yr).

12 “Greenhouse gas emissions intensity target” or “GHGIT” means the target that limits a
13 covered building’s GHGI under Chapter 22.925. GHGIT is reported as a value of kgCO₂e units
14 per square foot per year (kgCO₂e/SF/yr).

15 “Gross floor area” means the total number of square feet (SF) measured between the
16 exterior surfaces of the enclosing fixed walls, including all supporting functions such as offices,
17 lobbies, restrooms, equipment storage areas, mechanical rooms, break rooms, and elevator
18 shafts. Gross floor area excludes parking, outside bays, or docks. The gross floor area of indoor
19 atriums is the base floor area of the indoor portion of the atrium.

20 “Human service use” means the definition included in the Seattle Municipal Code,
21 Chapter 23.84A.

1 “Industrial building” means a building that has at least fifty percent of its use classified
2 under Factory Industrial Group F in the Seattle Building Code as manufacturing or light
3 industrial per the building’s Certificate of Occupancy.

4 “Initial occupancy date” means the date that a certificate of occupancy was first issued
5 for a building. If no certificate of occupancy was issued, it means the date any utility service was
6 first billed for the building.

7 "Low-income housing" means a publicly funded structure or structures for which one or
8 more regulatory agreements, covenants, or other legal instruments, enforceable by The City of
9 Seattle, King County, State of Washington, Washington State Housing Finance Commission, or
10 other public agency if approved by the Director of Housing being executed and recorded on the
11 title of the property that includes the low-income housing and such legal instruments either:

12 a. For a minimum period of 40 years, require rental of at least 40 percent of the principal
13 dwelling units (i.e., not accessory dwelling units), small efficiency dwelling units, or congregate
14 residence sleeping rooms as restricted units with rent and income limits no higher than 60
15 percent of median income; or

16 b. For a minimum period of 50 years, require at least 40 percent of the dwelling units as
17 restricted units sold to buyers with incomes no higher than 80 percent of median income at prices
18 (initial sale and resale) to allow modest growth in homeowner equity while maintaining long-
19 term affordability for income-eligible buyers, all as determined by the Director of Housing.

20 “Multifamily building” means a building or portion of a building with greater than 20,000
21 square feet of gross floor area that is classified under the Seattle Building Code as a Residential
22 Group R-2 or R-3 occupancy. A building shall be considered multifamily if more than fifty
23 percent of the building is residential use.

1 “Natural gas” means fossil fuel derived mixtures of hydrocarbon gases and vapors
2 consisting principally of methane, whether in gaseous or liquid form, not including gas which
3 meets the definition of renewable natural gas.

4 “Net-zero emissions” means that all energy sources used by a covered building have zero
5 GHG emissions, including any carbon offsets purchased and retired by a natural gas utility or
6 district thermal energy provider in accordance with and as authorized under the Climate
7 Commitment Act, chapter 70A.65 RCW; and including any renewable energy credits purchased
8 and retired by an electric utility in accordance with and as authorized under the Clean Energy
9 Transformation Act, chapter 19.405 RCW; and except for certain emissions deductions as may
10 be allowed by rule under Section 22.925.120.

11 “Nonresidential building” means a building or portion of a building with greater than
12 20,000 square feet of gross floor area, that is any classified occupancy under the Seattle Building
13 Code other than a building classified as a Factory Industrial Group F-1 or F-2 or as Residential
14 R-2 or R-3. A building shall be considered nonresidential if more than fifty percent of the
15 building is nonresidential use.

16 “Normalization factor” means a numerical factor used to adjust the GHGIT of a building
17 activity type to account for hours or operation for nonresidential activity types, or occupancy
18 density for multifamily activity types.

19 “Notice of violation” means a written notice issued to a building owner for failure to
20 comply with the requirements of this Chapter 22.925 or for making any misrepresentation of any
21 material fact in a document required to be prepared or disclosed by this Chapter 22.925 or rules
22 adopted under it.

23 “OSE” means the Office of Sustainability and Environment.

1 “Owners' association” means the entity consisting exclusively of all the unit owners in a
2 condominium. The association may be organized as a profit or nonprofit corporation.

3 “Qualified Person” means a person having training, expertise, and at least three years
4 professional experience in building energy use analysis and any of the following certifications or
5 licenses: a licensed professional architect or engineer in the State of Washington; a Building
6 Energy Assessment Professional (BEAP) certified by the American Society of Heating,
7 Refrigerating and Air-Conditioning Engineers (ASHRAE); Certified Energy Auditor (CEA)
8 certified by the Association of Energy Engineers (AEE); Building Operator Certification (BOC)
9 Level II by the Northwest Energy Efficiency Council; a Certified Commissioning Professional
10 (CCP) who is certified by an ANSI/ISO/IEC 17024:2012 accredited organization; a Certified
11 Energy Manager (CEM) in current standing certified by the Association of Energy Engineers
12 (AEE); an Energy Management Professional (EMP) certified by the Energy Management
13 Association. The Director is authorized to prescribe additional certifications and training to meet
14 the minimum qualifications of a qualified person.

15 "Renewable Energy Certificate" or "REC" means a tradable certificate of proof of one
16 megawatt-hour of a renewable resource. The certificate includes all of the nonpower attributes
17 associated with that one megawatt-hour of electricity. The certificate shall be verified by a
18 renewable energy credit tracking system.

19 “Renewable natural gas” means a gas consisting largely of methane and other
20 hydrocarbons derived from the decomposition of organic material in landfills, wastewater
21 treatment facilities, or anaerobic digesters and that is fully interchangeable with conventional
22 natural gas.

1 “Renewable thermal certificate” means a representation of the environmental attributes
2 associated with the production, transport, and use of one dekatherm of renewable natural gas.

3 “SEDU” means a "Dwelling unit—small efficiency" as defined according to Section
4 23.84A.008.

5 “Standard GHGIT” means the calculated greenhouse gas emissions intensity target
6 (“GHGIT”) in kgCO₂e/SF/yr for a covered building, building portfolio, district campus, or
7 connected buildings, based on the percent of gross floor area of each building activity type in
8 Table A for 22.925.070 and normalization factors.

9 “Tenant” means a person occupying or holding possession of a building or premises
10 pursuant to a rental agreement.

11 "Thermal energy" means heat or cold in the form of steam, heated, or chilled water, or
12 any other heated or chilled fluid or gaseous medium.

13 “Utility” means an entity that distributes and sells natural gas, electric, or thermal energy
14 services for buildings.

15 “Weather normalized" means a method for modifying the measured building energy use
16 in a specific weather year to the energy use under typical weather conditions.

17 **22.925.030 Rulemaking**

18 The Director may promulgate rules pursuant to the authority granted in Section 3.14.960
19 and pursuant to the procedures established for rulemaking in the Administrative Code, Chapter
20 3.02, as necessary to implement this Chapter 22.925, including but not limited to establishing
21 GHGI calculation procedures, establishing normalization factors, establishing and reporting
22 emissions factors, updating building activity types and associated GHGITs, establishing
23 processes for requesting alternative compliance, extensions and exemptions, establishing

1 reporting formats and processes, revising ACP and penalty amounts, or adjusting building end
2 use deductions.

3 **22.925.040 Greenhouse gas reductions**

4 A. Building owners shall reduce the GHGIs of covered buildings to meet their standard
5 GHGIs for each compliance interval, unless approved for alternative GHGI reductions in
6 Section 22.925.100 or an extension or exemption in Section 22.925.110.

7 B. Once buildings have achieved net-zero emissions, building owners shall maintain
8 covered buildings at net-zero emissions in perpetuity.

9 C. Building owners shall meet the reporting obligations to the City identified in Section
10 22.925.090 based on the compliance schedule in Table A of Section 22.925.060, unless approved
11 for an alternative compliance schedule in Section 22.925.100.

12 D. A covered building must meet its GHGIs and reporting obligations regardless of any
13 changes in the ownership of the covered building or any lease agreements established after the
14 effective date of this ordinance.

15 **22.925.050 Energy and emissions benchmarking verification**

16 A. By the compliance deadlines in Table A of Section 22.925.060, building owners shall
17 have a qualified person, other than the person who prepared and submitted the benchmarking
18 report pursuant to chapter 22.920 SMC, verify the accuracy of the covered building's reported
19 ENERGY STAR Portfolio Manager benchmarking data for the previous calendar year, January 1
20 – December 31.

21 B. Benchmarking verification shall apply to any benchmarking data used to determine a
22 covered building's compliance GHGIs and baseline GHGI, and for any other reporting
23 obligations calling for verified benchmarking data under this Chapter 22.925 or by rule.

C. If there are errors in previously reported benchmarking data or discrepancies between previously reported data and verified benchmarking data, the qualified person shall correct benchmarking data in ENERGY STAR Portfolio Manager.

22.925.060 Compliance schedules

A. Building owners shall meet benchmarking verification and reporting obligations for their covered buildings by October 1 of the compliance year listed in Table A for 22.925.060.

Table A for 22.925.060: Covered buildings compliance schedule for benchmarking verification and reporting obligations	
Gross floor area in square feet (SF):	Shall meet benchmarking verification and reporting obligations by October 1 st of the following years:
220,001 SF or greater	2027
90,001 - 220,000 SF	2027
50,001 - 90,000 SF	2028
30,001 - 50,000 SF	2029
20,001 - 30,000 SF	2030
Building portfolios, district campus and connected buildings compliance schedule	
	Building portfolios, district campuses, and connected buildings approved for alternative compliance per Section 22.925.100 shall meet benchmarking verification and reporting obligations by October 1 st of the following year:
	2028

B. Building owners shall meet their GHGITS, benchmarking verification, and reporting obligations for their covered buildings by October 1 of the compliance year for each compliance interval, listed in Table B for 22.925.060, and every five years thereafter.

Table B for 22.925.060: Covered buildings ¹ compliance schedule for meeting GHGITS, benchmarking verification, and reporting obligations

Gross floor area in square feet (SF):	Shall meet GHGIT, benchmarking verification, and reporting obligations by October 1 st of the following years:			
220,001 SF or greater	2031	2036	2041	2046
90,001 - 220,000 SF	2032	2037	2042	2047
50,001 - 90,000 SF	2033	2038	2043	2048
30,001 - 50,000 SF	2034	2039	2044	2049
20,001 - 30,000 SF	2035	2040	2045	2050

Building portfolios, district campus and connected buildings compliance schedule

	Building portfolios, district campuses, and connected buildings approved for alternative compliance per Section 22.925.100 shall meet GHGIT, benchmarking verification, and reporting obligations by October 1 st of the following years:			
	2033	2038	2043	2048

1 – Per Section 22.925.110, low-income housing is exempt from meeting the GHGI targets from 2031-2035 but is still required to meet benchmarking verification and all other reporting obligations for 2031-2035.

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22.925.070 Greenhouse gas emissions intensity targets

A. Table A for Section 22.925.070 establishes GHGITs by building activity type. The Director has the authority to revise by rule building activity type GHGITs for 2036-2040 by December 31, 2031, for 2041-2045 by December 31, 2036, and for 2046-2050 by December 31, 2041, based on building performance data, evolving technology, new regulations, or other relevant factors and shall revise by rule the laboratory GHGIT for 2031-2035 by December 31, 2026, by December 31, 2031, for 2041-2045 by December 31, 2036, and for 2046-2050 by December 31, 2041, based on further evaluation of the unique characteristics of laboratory spaces, evolving technology, any relevant national standards and other relevant factors. If a

1 relevant national laboratory standard has not been developed by December 31, 2026, the
 2 laboratory GHGIT may be deferred until the date a national laboratory standard has been
 3 developed.

Table A for 22.925.070: Building activity type greenhouse gas intensity targets (GHGITs)

Building Activity Type	GHGITs (K _G CO ₂ e/SF/YR) by compliance interval			
	2031-2035	2036-2040 ¹	2041-2045 ^{1, 2}	2046-2050 ^{1, 3}
College/University	2.69	1.57	0.00	0.00
Entertainment/Public Assembly	1.18	0.69	0.00	0.00
Fire/Police Station	2.23	1.30	0.00	0.00
Hospital	4.68	2.73	0.00	0.00
Hotel	2.06	1.20	0.00	0.00
K-12 School	0.95	0.56	0.00	0.00
Laboratory ¹	6.30	3.68	0.00	0.00
Multifamily Housing ^{3,4}	0.89	0.63	0.37	0.00
Non-Refrigerated Warehouse	0.77	0.45	0.00	0.00
Office	0.81	0.47	0.00	0.00
Other	2.48	1.45	0.00	0.00
Recreation	3.22	1.88	0.00	0.00
Refrigerated Warehouse	0.98	0.57	0.00	0.00
Residence Hall/Dormitory	1.16	0.68	0.00	0.00
Restaurant	5.73	3.34	0.00	0.00
Retail Store	1.03	0.60	0.00	0.00
Self-Storage Facility	0.31	0.18	0.00	0.00
Senior Living Community	2.11	1.23	0.00	0.00
Services	1.36	0.79	0.00	0.00
Supermarket/Grocery Store	3.42	2.00	0.00	0.00
Worship Facility	1.20	0.70	0.00	0.00

*1 – Targets may be revised by future rule, per subsection 925.070.A.
2 – Net-zero emissions by 2041-2045 for nonresidential.
3 – Net-zero emissions by 2046-2050 for multifamily housing.
4 – Per Section 22.925.110, owners of low-income housing may receive an extension from meeting the GHGIs in 2031-2035 but still must meet benchmarking verification and all other reporting obligations for 2031-2035.*

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2 B. The Director shall establish by rule normalization factors including but not limited to
3 hours of operation and multifamily occupancy density that may be used when calculating the
4 GHGIs for covered buildings.

5 C. Table B for 22.925.070 establishes the emissions factors for energy sources for
6 calculating baseline GHGI and compliance GHGIs.

Energy source	Emissions factors (kgCO ₂ e/kBtu)	
	For baseline GHGI (2019-2028)	For compliance GHGI (2031 – 2035) (Provisional)
Seattle City Light electricity	.0055	.0026
Puget Sound Energy natural gas	.053	.053
CenTrio district thermal energy	.083	.083

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8 E. The Director shall establish by rule the final emissions factors for energy sources for
9 the 2031-2035 compliance interval by December 31 of 2027 and emissions factors for each
10 subsequent compliance interval by December 31 of 2032, 2037, and 2042. The emissions factors
11 shall remain the same during each five-year compliance interval. Emissions factors shall reflect
12 changes in utility energy mix, regulatory requirements, and emissions factors published by the
13 Environmental Protection Agency (EPA).

14 1. Emissions factors for fossil fuels such as oil and propane shall be the Stationary
15 Combustion Emissions Factors published by the Environmental Protection Agency (EPA).

1 2. Emissions factors for natural gas purchased directly by the building owner shall
2 be the Stationary Combustion Emissions Factors published by the Environmental Protection
3 Agency (EPA).

4 3. Puget Sound Energy, or another gas provider, shall submit an emissions factor
5 for natural gas, inclusive of any renewable natural gas or other renewable sources if applicable,
6 to the Director with an accompanying report as submitted to the Washington Department of
7 Ecology or Climate Registry.

8 4. Seattle City Light, or another electricity provider, shall submit an emissions
9 factor for electricity to the Director with an accompanying report as submitted to the Washington
10 Department of Ecology or Climate Registry.

11 5. District thermal energy provider(s), CenTrio, its successor, or another provider,
12 shall submit an emissions factor for district thermal energy to the Director with an accompanying
13 report as submitted to the Washington Department of Ecology or Climate Registry.

14 6. The emissions factors for renewable energy such as biodiesel and renewable
15 natural gas, are dependent on the specific supply sources of the renewable energy acquired.
16 Building owners shall provide the Director with an attestation of the renewable energy
17 purchased, verified through M-RETS, Green-e or other renewable energy tracking registry,
18 which specifies the supply source and emissions factor of the renewable energy used.
19 Renewable energy sources, including but not limited to renewable natural gas or biodiesel, used
20 in meeting a covered building's GHGIT shall retain their environmental attributes and shall not
21 be double counted or disaggregated. Renewable Thermal Certificates, Carbon Offsets, and
22 Renewable Energy Certificates may not be used to meet a covered building's compliance
23 obligation.

1 **22.925.080 Building greenhouse gas emissions calculations**

2 A. Building owners shall use the following procedures to establish a covered building's
3 standard GHGIT for each compliance interval:

4 1. For the 2031-2035 compliance intervals, building owners shall use Table A for
5 22.925.070 to determine the standard GHGIT based on the building activity type(s) of the
6 covered building.

7 2. For the 2036-2040, 2041-2045 and 2046-2050 compliance intervals, building
8 owners shall use the building activity type GHGITs established by rule to determine the standard
9 GHGIT based on the building activity type(s) of the covered building.

10 3. Building owners of covered buildings with more than one building activity type
11 shall prorate the standard GHGIT based on the percent of gross floor area of each building
12 activity type.

13 4. Normalization factors established by rule may be used to adjust the GHGIT for
14 activity types where appropriate.

15 B. Building owners shall use the following procedures and formulas to determine a
16 covered building's compliance GHGI for each compliance interval:

17 1. The compliance GHGI for covered buildings is the sum of all GHG *emissions*
18 from the building(s) minus the sum of allowed GHG emissions *deductions*, divided by the gross
19 floor area of the covered building(s).

20
$$\text{compliance GHGI} = \text{GHG emissions (CO}_2\text{e/yr)} - \text{GHG deductions (CO}_2\text{e/yr)} /$$

21
$$\text{gross floor area (SF)}$$

1 GHG *emissions* are the sum of the annual weather-normalized energy use of each
2 energy source reported in ENERGY STAR Portfolio Manager in kBtu multiplied by the
3 emissions factor for each energy source in kgCO₂e/kBtu.

4
$$\text{GHG emissions (CO}_2\text{e/yr)} = [\text{energy use A (kBtu/yr)} \times \text{emissions factor}$$

5
$$\text{A (CO}_2\text{e/kBtu)}] + [\text{energy use B (kBtu/yr)} \times \text{emissions factor B (CO}_2\text{e/kBtu)}] + [\text{energy use C}$$

6
$$\text{(kBtu/yr)} \times \text{emissions factor C (CO}_2\text{e/kBtu)}]$$

7 b. GHG emissions *deductions* are the sum of the annual GHG emissions of
8 the specific end uses listed in Section 22.925.120.

9 2. To calculate a covered building's compliance GHGI, building owners shall use
10 verified energy benchmarking data. Building owners may use either:

11 a. Twelve consecutive months of verified energy benchmarking data from
12 the time period preceding the covered building's GHGIT compliance deadline. The twelve-
13 month period may run from January 1-December 31 or from July 1-June 30; or

14 b. The annual average of twenty-four consecutive months of verified
15 energy benchmarking data from the time period preceding the covered building's GHGIT
16 compliance deadline. The twenty-four-month period may run from January 1-December 31 or
17 from July 1-June 30.

18 C. The Director shall establish by rule the years allowed for baseline GHGIs used in
19 alternative compliance calculations for covered buildings.

20 D. Building owners with covered buildings approved to use alternate GHGITs shall use
21 the following formulas to calculate the alternate GHGITs for each compliance interval:

1 1. A nonresidential building’s alternate GHGITs for their compliance deadline in
2 each compliance interval shall be calculated as follows. Net-zero emissions shall be achieved by
3 the compliance deadline in the 2041-2045 compliance interval.

4 a. Sixty-six percent of the baseline GHGI for the 2031-2035 compliance
5 interval.

$$\textit{alternate GHGIT (CO}_2\textit{e/SF/yr) = baseline GHGI (CO}_2\textit{e/SF/yr) * .66}$$

6 b. Thirty-three percent of the baseline GHGI for the 2036-2040
7 compliance interval.
8

$$\textit{alternate GHGIT (CO}_2\textit{e/SF/yr) = baseline GHGI (CO}_2\textit{e/SF/yr) * .33}$$

9 2. A multifamily building’s alternate GHGITs for their compliance deadline in
10 each compliance interval shall be calculated as follows. Net-zero emissions shall be achieved by
11 the compliance deadline in the 2041-2045 compliance interval.
12

13 a. Seventy-five percent of the baseline GHGI for the 2031-2035
14 compliance interval.

$$\textit{alternate GHGIT (CO}_2\textit{e/SF/yr) = baseline GHGI (CO}_2\textit{e/SF/yr) * .75}$$

15 b. Fifty percent of the baseline GHGI for the 2036-2040 compliance
16 interval.
17

$$\textit{alternate GHGIT (CO}_2\textit{e/SF/yr) = baseline GHGI (CO}_2\textit{e/SF/yr) * .50}$$

18 c. Twenty-five percent of the baseline GHGI for the 2041-2045
19 compliance interval.
20

$$\textit{alternate GHGIT (CO}_2\textit{e/SF/yr) = baseline GHGI (CO}_2\textit{e/SF/yr) * .25}$$

21
22 **22.925.090 Reporting obligations**

1 Building owners shall meet the following reporting obligations by the compliance deadlines in
2 Table A and Table B of Section 22.925.060, unless approved for an alternative compliance
3 schedule in Section 22.925.100.

4 A. Building owners shall submit to the Director an energy benchmarking verification
5 report from a qualified person documenting that the covered building's reported ENERGY
6 STAR Portfolio Manager benchmarking data for the previous calendar year, January 1 –
7 December 31, and for any other time period used to comply with this Chapter 22.925, is
8 accurate.

9 B. Building owners shall submit to the Director a Seattle greenhouse gas emissions
10 standard report, completed by a qualified person. The report shall be in a form developed by the
11 Director and contain all of the following:

- 12 1. The GHGIT and the compliance GHGI for that compliance interval;
- 13 2. A description and documentation of the actions completed to meet the
14 GHGITs;
- 15 3. Documentation for any approved alternative compliance option used, including
16 baseline GHGIs and alternate GHGITs;
- 17 4. Documentation for any approved extensions or exemptions;
- 18 5. Documentation of any end-use deductions allowed and used for calculating the
19 compliance GHGIs;
- 20 6. A list of major building mechanical equipment, such as equipment used for
21 space heating and cooling, water heating, cooking, and other activities and their age and fuel
22 sources;

1 7. An outline of the actions needed for the building to meet subsequent GHGITs;
2 and

3 8. Any additional information required by the Director.

4 C. The Director shall review and confirm that the greenhouse gas emissions standard
5 report contains accurate information for all items required in 22.925.090.B.

6 **22.925.100 Alternative compliance**

7 Building owners may apply for the following alternative compliance options, in lieu of meeting
8 standard GHGITs, in one or more compliance intervals.

9 A. ACP. Building owners may meet up to one hundred percent of a covered building's
10 emissions reductions required to meet the GHGIT for the 2031-2035 compliance interval with an
11 ACP.

12 1. The ACP shall be the greater of:

13 a. \$1,250 for covered buildings with a gross floor area of 50,000 square
14 feet or less or \$2,500 for covered buildings with a gross floor area greater than 50,000 square
15 feet; or

16 b. The total annual metric tons (MT) of CO₂e a covered building, building
17 portfolio, district campus or connected buildings exceeds the annual MTCO₂e the building
18 would have achieved meeting its GHGIT for the compliance year multiplied by the five years in
19 the compliance interval.

20
$$ACP = total\ annual\ MTCO_2e/yr * 5 * cost\ of\ MTCO_2e\ (\$/MTCO_2e)$$

21
$$total\ annual\ MTCO_2e = [compliance\ GHGI\ (kgCO_2e/SF/yr) - GHGIT$$

22
$$(kgCO_2e/SF/yr)] * gross\ floor\ area / 1000$$

1 2. The cost of each MTCO_{2e} shall be \$190.00 per MTCO_{2e} for the 2031-2035
2 compliance interval, except that the ACP shall not exceed the penalty amount for the same
3 compliance interval. No later than October 1, 2028, the Director by rule may raise the dollar
4 amount per MTCO_{2e} for the 2031-2035 compliance interval to adjust for inflation and to
5 account for adjustments to the social cost of carbon by a relevant government agency.

6 B. Aggregate standard GHGIT. Building owners with a building portfolio, district
7 campus, or connected buildings may use an aggregate standard GHGIT for the covered buildings
8 within the building portfolio, district campus, or connected buildings using the calculations in
9 Section 22.925.080.

10 C. Alternate GHGIT. Building owners of covered buildings that meet one of the
11 following criteria may use alternate GHGITs for each compliance interval, calculated according
12 to Section 22.925.080. A building owner shall apply for and receive approval for custom
13 GHGITs before the covered building's first compliance deadline and shall use the approved
14 alternate GHGITs for each subsequent compliance interval. A building owner may apply to
15 amend the alternate GHGIT or baseline GHGI when one or more of the metrics used to calculate
16 the alternate GHGIT or baseline GHGI have changed.

17 1. Building portfolio, district campus, or connected buildings.

18 2. A nonresidential building with more than fifty percent of the covered building
19 with the building activity type of "Other" or of a type not covered in Table A for Section
20 22.925.070.

21 3. A covered building that has a baseline GHGI greater than three and one-half-
22 times the covered building's standard GHGIT for the 2031-2035 compliance interval.

23 *baseline GHGI (CO_{2e}/SF/yr) > 3.5 * standard GHGIT (CO_{2e}/SF/yr)*

1 D. Prescriptive options. A building owner may utilize one or more prescriptive options
2 for multifamily buildings in lieu of meeting its GHGIT during the 2031-2035, 2036-2040, or
3 2041-2045 compliance intervals. Each prescriptive option shall only be used for one compliance
4 interval. Prescriptive options include:

5 1. Replacing existing fossil fuel combustion service hot water system(s) with
6 electric heat pump water heating (HPWH) system(s) in compliance with the current Seattle
7 Energy Code, including all systems serving the residential units and residential common areas. In
8 residential condominium buildings, only the mechanical systems, equipment and appliances
9 serving common areas and/or multiple residential units need to be replaced.

10 2. Replacing existing fossil fuel combustion HVAC heating system equipment
11 with electric heat pump systems or in-unit electric resistance in compliance with the current
12 Seattle Energy Code, including all equipment serving the residential units and residential
13 common areas. In residential condominium buildings, only the systems serving common areas
14 and/or multiple residential units need to be replaced.

15 E. Decarbonization compliance plan. Building owners with extenuating circumstances
16 that make complying with the compliance schedule or meeting the GHGITs a significant
17 hardship for an individual building may apply to use a decarbonization compliance plan for
18 achieving net-zero greenhouse gas emissions or an approved low emissions GHGIT by 2041-
19 2050.

20 1. Extenuating circumstances for which an owner can use a decarbonization
21 compliance plan for an individual building to achieve net-zero greenhouse gas emissions by
22 2041-2050 include:

1 a. When a substantial alteration under Section 307 of the Seattle Energy
2 Code will be undertaken concurrently with building upgrades necessary to meet a covered
3 building's GHGIT.

4 b. When seismic upgrades for a covered building with unreinforced
5 masonry will be undertaken concurrently with building upgrades necessary to meet the covered
6 building's GHGIT.

7 c. When building upgrades necessary to meet the GHGIT include the
8 installation of significant electrical infrastructure upgrades to increase electric capacity in the
9 building, such as adding a new transformer vault.

10 d. When building upgrades necessary to meet the GHGIT would require
11 the replacement of HVAC heating system equipment or service hot water equipment already
12 vested under the Seattle Energy Code by the effective date of this ordinance and that equipment
13 has not yet reached a defined percentage of life expectancy. Standardized equipment life
14 expectancy and defined percentage of life expectancy will be established by rule.

15 e. When the building upgrades necessary to meet the GHGIT would
16 require access to laboratory, or in-patient or emergency healthcare that must maintain non-
17 interruptible operations.

18 f. When the owner of a covered building has a tenant lease in place
19 before the effective date of this ordinance which specifically precludes owner access to
20 equipment on which work would be required to meet the GHGIT. This extenuating circumstance
21 is only available for the 2031-2035 compliance interval.

22 g. When there are no practicable low and zero GHG emissions alternatives
23 available on the market for a necessary function.

1 2. Extenuating circumstances for which an owner can use a decarbonization
2 compliance plan for achieving an approved low emissions GHGIT by 2041-2050 include:

3 a. When upgrades necessary to meet net-zero emissions in a low-income
4 housing multifamily building are infeasible.

5 b. When building upgrades necessary to meet net-zero emissions would
6 adversely affect the special features or characteristics of a landmark identified in the designating
7 ordinance or designation report, or would compromise the historic integrity of a building within
8 a historic district, as determined by either the City’s Historic Preservation Officer, or historic
9 board or commission, whichever has authority to grant or deny a Certificate of Approval for the
10 building upgrades.

11 c. When structural or electrical capacity upgrades necessary to meet net-
12 zero emissions are infeasible due to distinct technical and/or physical limitations of the covered
13 building.

14 d. When a cost analysis of the measures necessary to meet net-zero
15 emissions and a property valuation or other business financial analysis, whose content shall be
16 determined by rule, can demonstrate that the incremental cost of meeting net-zero would create
17 financial distress to the building.

18 e. When there are no practicable zero GHG emissions alternatives
19 available on the market for a necessary function.

20 3. Decarbonization compliance plans shall be completed by a qualified person and
21 shall be updated and submitted prior to each compliance interval.

1 4. Decarbonization compliance plans shall be resubmitted for reapproval by OSE
2 to reflect any changes in building use, major tenants, or management, or other circumstances that
3 may impact compliance.

4 5. If the building ownership changes, the plan must be resubmitted to the Director
5 by the new owner for approval.

6 6. Decarbonization compliance plans must include the following:

7 a. a building energy and greenhouse gas emissions audit and an analysis of
8 energy efficiency and greenhouse gas emissions reduction actions.

9 b. incremental GHGITs and the final GHGIT for the building and show
10 energy efficiency and/or greenhouse gas reduction measures that will be taken for each
11 compliance interval.

12 c. any additional content specified by decarbonization plan provisions in
13 the Seattle Energy Code.

14 d. a cost analysis for achieving the incremental and final GHGITs for each
15 compliance interval covered by the plan. The cost analysis shall be in a form developed by the
16 director by rule and shall include, at a minimum, the incremental cost of any equipment or other
17 upgrades needed to meet the GHGIT above standard asset replacement costs or business-as-usual
18 conditions. The analysis must include the social cost of carbon, utility cost savings, available
19 grants, incentives, tax deductions or other financial incentives, and any additional information
20 required by the Director.

21 e. any additional information required by the Director to demonstrate the
22 building meets one of the extenuating circumstances in subsections 22.925.100.E.3 and
23 22.925.100.E.4.

1 F. District campus decarbonization compliance plan. A district campus that can
2 demonstrate through a campus decarbonization compliance plan that upgrades to the district
3 campus plant will generate cumulative emissions reductions from 2028 – 2050 that are equal to
4 or greater than the cumulative emissions reductions that would be achieved by meeting standard
5 or alternate GHGITS may submit a campus decarbonization compliance plan to OSE for
6 approval. The plan content and form shall be specified by rule.

7 **22.925.110 Extensions and Exemptions**

8 A. Building owners with covered buildings with one or more of the following
9 conditions may apply for an extension from meeting GHGITS, benchmarking verification, and/or
10 reporting requirements for one or more compliance intervals. This extension only applies to the
11 2027-2030 and 2031-2035. Building owners must still meet benchmarking verification and all
12 reporting obligations

13 1. A newly constructed covered building that receives a certificate of occupancy
14 less than three years before its compliance date may receive an extension for one compliance
15 interval from meeting the requirements of this Chapter 22.925.2. Covered buildings under pre-
16 existing financial distress may receive an extension from meeting the requirements of this
17 Chapter 22.925 for each compliance interval they remain under financial distress.

18 2. Covered buildings under pre-existing financial distress, at their compliance
19 date, may receive an extension from meeting the requirements of this Chapter 22.925 for each
20 compliance interval they remain under financial distress.

21 3. A covered building with a high rental vacancy rate, as determined by rule,
22 during a consecutive 12-month period within the 36-months preceding the relevant compliance
23 date may receive an extension from meeting the GHGIT for one compliance interval.

1 4. Low-income housing and covered buildings with more than fifty percent of the
2 building occupied by human service uses may receive an extension from meeting the GHGITs in
3 the 2031-2035 compliance interval. Building owners must meet benchmarking verification and
4 all reporting obligations for the 2031-2035 compliance interval and must meet the GHGITs for
5 all subsequent compliance intervals.

6 5. Low-income housing may receive an extension from meeting the GHGITs in
7 the 2036-2040 compliance interval when a pre-established refinancing date would not occur until
8 after the covered building's compliance deadline in 2036-2040. Building owners must meet
9 benchmarking verification and all reporting obligations for the 2036-2040 compliance interval
10 and must meet the GHGITs for all subsequent compliance intervals.

11 6. A multifamily building that is not publicly funded low-income housing but for
12 which the current contract rent and the contract rent for a minimum of ten years after the relevant
13 compliance date in 2031-2035, including an allowance for basic utilities if not included in the
14 contract rent, for over sixty percent of the total residential units is at or below sixty percent of
15 median income, or at or below forty percent of median income for SEDUs, as published by the
16 Seattle Office of Housing, may receive an extension from meeting the GHGITs in the 2031-2035
17 compliance interval. Building owners must meet benchmarking verification and all reporting
18 obligations for the 2031-2035 compliance interval and must meet the GHGITs for all subsequent
19 compliance intervals.

20 B. Building owners with covered buildings with one or more of the following conditions
21 may apply for an exemption from meeting GHGITs, benchmarking verification, and/or reporting
22 requirements for one or more compliance intervals.

1 1. A covered building that has extremely low emissions due to using only
2 electrical energy may be exempt from meeting the GHGITs and from submitting a greenhouse
3 gas emissions standard report for all compliance intervals but must meet benchmarking
4 verification and reporting requirements for each compliance interval. Residential condominiums
5 may meet this exemption when all space and water heating systems, and other equipment and
6 appliances, under common ownership use only electric energy sources.

7 2. A covered building scheduled to be demolished within three years of a
8 compliance deadline for any compliance interval may be exempt from meeting all requirements
9 of this Chapter 22.925. If the covered building is not demolished within three years of the
10 exemption approval, the building owner shall comply with all subsequent requirements of this
11 Chapter 22.925.

12 **22.925.120 End Use Deductions**

13 Building owners may deduct the sum of the annual GHG emissions from the following end uses
14 from their compliance GHGI, for one or more compliance intervals.

15 A. Fossil fuel cooking equipment. This deduction may only be used for the 2031-2035
16 and 2036-2040 compliance intervals.

17 B. Fossil fuel high intensity process equipment used in hospitals and laboratories, and
18 fossil fuel high intensity laundry equipment used in hotels and healthcare. This deduction may
19 only be used for the 2031-2035 and 2036-2040 compliance intervals.

20 C. Fossil fuel equipment located within an individually owned residential unit within a
21 multifamily condominium building.

22 D. Electric vehicle charging equipment that transfers electricity to batteries or other
23 energy storage devices in electric vehicles or for electric loads related to broadcast antennas, on-

1 site cell phone towers or other communications equipment that is unrelated to the primary
2 purpose of the building.

3 E. Fossil fuel generators used exclusively for emergency power back-up power or fossil-
4 fuel equipment used for back-up emergency heat in hospitals and laboratories.

5 F. Emissions from district energy steam, hot water and/or chilled water provided by a
6 private district energy provider. This deduction may only be used for the 2031-2035 compliance
7 interval and this deduction may only be used if the building owner has a contract for district
8 thermal energy with a private district energy provider and the contract was established prior to
9 June 1, 2024 and where a breach of contract would impose a financial penalty on the building
10 owner.

11 G. The Director may by rule add additional end uses for highly specialized equipment
12 and add compliance intervals for which the end use deduction applies based on technological and
13 market availability of low and zero GHG emissions alternatives.

14 **22.925.130 General Provisions**

15 A. OSE shall provide compliance support to owners and tenants of covered buildings
16 including, but not limited to, outreach and informational materials, phone and email
17 consultations, tools to support understanding and calculating GHGIs and GHGITS, and periodic
18 training and informational workshops.

19 B. Unless otherwise restricted by state or city regulations, tenants shall allow building
20 owners access to mechanical systems and utility information as necessary to comply with the
21 terms of this Chapter 22.925.

22 C. By December 31, 2031, and every five years thereafter, OSE shall provide a report to
23 the Mayor and City Council on implementation of the greenhouse gas emissions standard

1 established under this Chapter 22.925, including compliance rates and emissions reductions,
2 building upgrade actions and costs, as well as an overview of technical and financial support
3 provided for covered buildings. By 2033, OSE shall conduct a preliminary assessment of
4 emissions reductions and compliance rates, including percentages complying early and/or
5 utilizing alternative compliance options.

6 **22.925.140 Revenue Expenditures**

7 A. Revenue collected under this Chapter 22.925 from fines, fees, and alternative
8 compliance payments shall be spent on programs and activities to reduce greenhouse gas
9 emissions from nonresidential, multifamily, and single family buildings, including technical and
10 financial assistance to building owners and tenants with a priority on buildings serving people
11 with low or no incomes and communities historically most harmed by economic, racial, and
12 environmental injustice.

13 B. The City shall establish an early adopter incentive program providing incentives and
14 technical assistance.

15 **22.925.150 Violations**

16 It is a violation of Chapter 22.925 for any person or entity to fail to comply with its
17 requirements or misrepresent any material fact in a document required to be prepared or
18 disclosed by this Chapter 22.925 or rules adopted under it.

19 **22.925.160 Authority to enforce**

20 A. The Director shall have the authority to enforce Chapter 22.925.

21 B. Chapter 22.925 shall be enforced for the benefit of the health, safety, and welfare of
22 the general public, and not for the benefit of any particular person or class of persons.

1 C. It is the intent of Chapter 22.925 to place the obligation of complying with its
2 requirements upon the building owners.

3 D. No provision or term used in Chapter 22.925 is intended to impose any duty upon the
4 City or any of its officers or employees that would subject them to damages in a civil action.

5 E. The Director at his or her discretion may delegate the enforcement of any provision of
6 Chapter 22.925, including but not limited to the authority to investigate and determine if any
7 building owner subject to Chapter 22.925 has not complied with its requirements, to issue notices
8 of violation and to collect assessed fines.

9 **22.925.170 Investigating violations and issuing notices of violation**

10 A. The Director is authorized to investigate and determine if any building owner, tenant
11 or other person has complied or not complied with the requirements of Chapter 22.925.

12 B. If after investigation, the Director determines that the requirements of Chapter 22.925
13 have been violated, the Director may issue a notice of violation to the building owner, tenant or
14 other person subject to Chapter 22.925.

15 C. The notice of violation shall state separately each requirement that was violated, what
16 corrective action is necessary to comply with the requirements, shall set a reasonable time for
17 compliance, and shall state any penalties or fines imposed.

18 D. The notice of violation shall be served on the building owner, tenant or other person
19 subject to Chapter 22.925 in the manner set forth in RCW 4.28.080 for service of a summons or
20 sent by first class mail, addressed to the last known address of such person(s). Service shall be
21 complete at the time of personal service, or if mailed, three (3) days following the date of
22 mailing.

1 E. If any building owner, tenant or other person fails to correct the violation, a copy of
2 the notice of violation may be filed with the King County Recorder's Offices.

3 F. Nothing in this Section 22.925.130 shall be deemed to limit or preclude any action or
4 proceeding to enforce Chapter 22.925, nor does anything in Section 22.925.130 obligate the
5 Director to issue a notice of violation prior to initiating a civil enforcement action.

6 **22.925.180 Penalties**

7 A. Penalties for the failure of a building owner to comply with Chapter 22.925 shall be
8 imposed as follows for each five-year interval pursuant to the compliance schedule in Section
9 22.925.060.

10 1. Fines for the failure of a building owner to comply with the reporting
11 obligations of Section 22.925.090 shall be imposed 360 days after the due date for the failure to
12 submit the reports; however, no fine shall be imposed when a building owner cannot comply
13 with the reporting obligations due to a tenant's failure to provide information required under
14 Section 22.925.130:

15 a. For covered buildings with gross floor area greater than 50,000 square
16 feet a fine of \$15,000 shall be imposed;

17 b. For covered buildings with gross floor area equal to or fewer than
18 50,000 square feet, a fine of \$7,500 shall be imposed.

19 2. If the Director determines that a building owner has submitted an inaccurate
20 report as required by Section 22.925.090, the Director may seek the following remedies, in
21 addition to any other remedies authorized by law or equity:

22 a. For covered buildings with gross floor area greater than 50,000 square
23 feet, a \$15,000 fine shall be imposed;

1 b. For covered buildings with gross floor area equal to or fewer than
2 50,000 square feet, a \$7,500 fine shall be imposed.

3 3. Fines for the failure of a building owner to demonstrate that they have met the
4 GHGITs as required by Section 22.925.070, or complied with an alternative compliance option,
5 shall be imposed 360 days after the compliance date for each compliance interval listed in
6 Section 22.925.060. A fine of \$3.33 per square foot for nonresidential buildings and \$2.50 per
7 square foot for multifamily buildings shall be based on the gross floor area reported by the
8 building owner for the covered building's most current verified energy benchmarking report. If a
9 verified benchmarking report has not been submitted to the City, the fine shall be based on the
10 covered building's building gross square feet listed in the King County Assessor's property
11 detail record. Owners of covered buildings using the building portfolio, district campus or
12 connected buildings reporting options will be assessed a fine based on the total gross floor area
13 of all buildings greater than 20,000 square feet in the building portfolio, district campus or
14 connected buildings.

15 4. When failure to meet the required GHGITs is due to a tenant's failure to
16 provide access to mechanical systems as required under Section 22.925.130, the Director may
17 adjust the fine amount imposed on the building owner considering the proportional impact on the
18 building's compliance GHGI.

19 B. If the Director determines that a tenant has failed to allow access to mechanical
20 systems or provide utility information to a building owner as required under Section 22.925.130,
21 the Director may, in addition to any other remedy authorized by law or equity, impose a fine on
22 the tenant as follows. For tenant spaces with a gross floor area:

23 1. Greater than 50,000 square feet, a fine of \$5,000 shall be imposed;

1 2. Greater than or equal to 5,000 square feet but not more than 50,000 square feet,
2 a fine of \$2,500 shall be imposed;

3 3. Less than 5,000 square feet, a fine of \$500 shall be imposed;

4 C. The Director by rule may establish grace periods for imposing fines for any class of
5 structure upon a finding that such grace period will facilitate the submission of reports, accurate
6 reporting, compliance with greenhouse gas emissions reduction requirements, or otherwise
7 further the purposes of Chapter 22.925.

8 D. The Director by rule may raise penalty amounts to adjust for compliance rates,
9 inflation or other relevant market conditions. Penalty amounts may not be adjusted for
10 compliance intervals before 2036.

11 E. The Director must establish by rule revised penalty amounts by later than October 1,
12 2034 for compliance from 2036 to 2040, and every five years thereafter for subsequent
13 compliance intervals.

14 **22.925.190 Response to notice of violations**

15 A. A building owner must respond to a notice of violation by:

16 1. Paying the amount of the penalty specified in the notice of violation, in which
17 case the record shall show a finding that the person cited committed the violation; or

18 2. Requesting in writing, via email or postal mail, an administrative review in
19 accordance with Section 22.925.200 and providing an email address and/or physical mailing
20 address to which a building emissions performance standard violation appeal form may be sent if
21 completing an online emissions performance standard violation appeal form is not possible or
22 preferred.

1 B. A response to a notice of violation must be received by the Director no later than 30
2 days after the date the notice of violation is mailed or otherwise served. When the last day of the
3 administrative appeal period so computed is a Saturday, Sunday, or federal or City holiday, the
4 period shall run until five (5) p.m. on the next business day.

5 C. If a building owner fails to respond to a notice of violation, the Director shall enter an
6 order of finding that the person cited committed the violation stated in the notice of violation and
7 assessing the penalty specified in the notice of violation.

8 **22.925.200 Director administrative review of notice of violation**

9 A. A notice of violation shall be subject to administrative review if the aggrieved party
10 requests in writing a review by the Director within 30 days after service of the notice of
11 violation. When the last day of the review period is a Saturday, Sunday, or federal or City
12 holiday, the period shall run until five (5) p.m. on the next business day.

13 B. To be considered by the Director, the written request for review must be submitted
14 with the building emissions performance standard violation appeal form, which will document
15 the reason for the review.

16 C. After receiving a request for review, the Director shall notify the requesting party, the
17 building owner who was issued a notice of violation, and any person who requested notice of the
18 review that a request for review has been received.

19 D. The Director shall review the basis for issuing the notice of violation and the building
20 emissions performance standard violation appeal form. The Director may request clarification of
21 information received, or may request more information from either the requesting party or the
22 department. After the review is completed, the Director may sustain, withdraw, modify, or

1 amend the notice of violation, or continue the review to a date certain for receipt of additional
2 information.

3 E. The Director's administrative review decision is final. An aggrieved party may submit
4 a request for a mitigation hearing or a contested hearing before the Hearing Examiner in
5 accordance with Sections 22.925.230 and 22.925.240.

6 F. The Director by rule may establish grace periods for submitting an appeal.

7 **22.925.210 Failure to respond to an administrative review decision**

8 If a building owner fails to respond to an administrative decision within 15 days of
9 service, the Director shall enter an order finding that the person cited committed the violation
10 stated in the notice of violation and assessing the penalty specified in the notice of violation.

11 **22.925.220 Response to an administrative review decision**

12 A. A building owner must respond to an administrative review decision by:

13 1. Paying the amount of the penalty specified in the notice of violation, in which
14 case the record shall show a finding that the building owner cited committed the violation;

15 2. Requesting in writing a mitigation hearing to explain the circumstances
16 surrounding the commission of the violation and provide a mailing address to which notice of
17 such hearing may be sent; or

18 3. Requesting in writing a contested hearing and such request shall include the
19 reason why the cited violation did not occur or why the building owner cited is not responsible
20 for the violation, and a mailing address to which notice of such hearing may be sent.

21 B. A response to an administrative review decision must be received by the Office of the
22 Hearing Examiner no later than 15 days after the date the administrative review decision is
23 mailed or personally served. When the last day of the appeal period so computed is a Saturday,

1 Sunday, or federal or City holiday, the period shall run until five (5) p.m. on the next business
2 day.

3 **22.925.230 Mitigation hearings**

4 A. Date and notice. If a building owner requests a mitigation hearing, the mitigation
5 hearing shall be held within 30 days after a written response to the administrative review
6 decision requesting a hearing is received by the Hearing Examiner. Notice of the time, place, and
7 date of the hearing will be sent in accordance with Section 3.02.090 not less than ten days prior
8 to the hearing date.

9 B. Procedure at hearing. The Hearing Examiner shall hold an informal hearing which
10 shall not be governed by the Rules of Evidence. The building owner cited may present witnesses,
11 however, witnesses may not be compelled to attend. The Director's representative may also be
12 present and may present additional information; however, attendance by a representative from
13 The City or the Director is not required.

14 C. Disposition. The Hearing Examiner shall determine whether the building owner's
15 explanation justifies reduction of the penalty; however, the penalty may not be reduced unless
16 the Director affirms or certifies that the violation has been corrected prior to the mitigation
17 hearing. Factors that may be considered in whether to reduce the penalty include but are not
18 limited to the following: whether the violation was caused by the act, neglect, or abuse of
19 another; whether correction of the violation was commenced promptly prior to notice of
20 violation; or whether full compliance was prevented by a condition or circumstance beyond the
21 control of the building owner cited.

22 **22.925.240 Contested hearings**

1 A. Date and notice. If a building owner requests a contested hearing, the hearing shall be
2 held within 60 days after the written response to the administrative review decision requesting
3 such hearing is received.

4 B. Hearing. Contested hearings shall be conducted pursuant to the procedures for hearing
5 contested cases contained in Section 3.02.090 and the rules adopted by the Hearing Examiner for
6 hearing contested cases, except as modified by Section 22.925.240. The issues heard at the
7 hearing shall be limited to those that are raised in writing in the response to the notice of
8 violation and that are within the jurisdiction of the Hearing Examiner. The Hearing Examiner
9 may issue subpoenas for the attendance of witnesses and the production of documents.

10 C. Sufficiency. No notice of violation shall be deemed insufficient for failure to contain a
11 detailed statement of the facts constituting the specific violation which the building owner cited
12 is alleged to have committed or by reason of defects or imperfections, provided such lack of
13 detail, or defects or imperfections do not prejudice substantial rights of the building owner cited.

14 D. Amendment of notice of violation. A notice of violation may be amended prior to the
15 conclusion of the hearing to conform to the evidence presented if substantial rights of the
16 building owner cited are not prejudiced.

17 E. Evidence at hearing.

18 1. The certified statement or declaration authorized by RCW 9A.72.085 submitted
19 by the Director shall be prima facie evidence that a violation occurred, and that the building
20 owner cited is responsible. The certified statement or declaration of the Director authorized
21 under RCW 9A.72.085 and any other evidence accompanying the report shall be admissible
22 without further evidentiary foundation.

1 2. Any certifications or declarations authorized under RCW 9A.72.085 shall also
2 be admissible without further evidentiary foundation. The building owner cited may rebut the
3 evidence and establish that the cited violation(s) did not occur or that the building owner
4 contesting the notice of violation is not responsible for the violation.

5 F. Disposition. If the notice of violation is sustained at the hearing, the Hearing Examiner
6 shall enter an order finding that the building owner cited committed the violation. If the violation
7 remains uncorrected, the Hearing Examiner shall impose the applicable penalty. The Hearing
8 Examiner may reduce the monetary penalty in accordance with the mitigation provisions
9 in Section 22.925.230 if the violation has been corrected. If the Hearing Examiner determines
10 that the violation did not occur, the Hearing Examiner shall enter an order dismissing the notice
11 of violation.

12 G. Appeal. The Hearing Examiner's decision is the final decision of the City. Any judicial
13 review must be commenced by applying for a writ of review in the King County Superior Court
14 within 14 days from the date of the decision in accordance with the procedure set forth in chapter
15 7.16 RCW, other applicable law, and court rules.

16 **22.925.250 Failure to appear for notice of violation hearing**

17 Failure to appear for a requested hearing will result in an order being entered finding that the
18 building owner cited committed the violation stated in the notice of violation and assessing the
19 penalty specified in the notice of violation. For good cause shown and upon terms the Hearing
20 Examiner deems just, the Hearing Examiner may set aside an order entered upon a failure to
21 appear.

22 **22.925.260 Collection of notice of violation penalties**

1 If the building owner cited fails to pay a penalty imposed pursuant to Chapter 22.925, the penalty
2 may be referred to a collection agency. The cost to the City for the collection services will be
3 assessed as costs, at the rate agreed to between the City and the collection agency, and added to
4 the penalty. Alternatively, the City may pursue collection in any other manner allowed by law.

5 **22.925.270 Referral to City Attorney for enforcement**

6 If a building owner fails to correct a violation or pay a penalty, the Director shall refer the matter
7 to the City Attorney's Office for civil enforcement action. Civil actions to enforce a violation of
8 Chapter 22.925 shall be brought exclusively in Municipal Court.

9 **22.925.280 Appeal to Superior Court**

10 Because civil enforcement actions under Chapter 22.925 are brought exclusively in Municipal
11 Court, notices of violations are not subject to judicial review under chapter 36.70C RCW. Final
12 decisions of the Municipal Court may be appealed under the Rules of Appeals of Decisions of
13 Courts of Limited Jurisdiction.

14 Section 2. Section 22.920.010 of the Seattle Municipal Code, last amended by Ordinance
15 123993, is amended as follows:

16 **22.920.010 Applicability**

17 A. This chapter applies to all nonresidential and multi-family benchmarking buildings as
18 defined in the following table:

Description	Reporting Requirements
1. A structure or any portion of a structure which:	Nonresidential benchmarking

	<p>((a) Is subject to the provisions of the Seattle Building Code, and))</p>	
	<p>a) ((b))Has a gross <u>floor area</u> of more than 20,000 square feet, (<u>gross floor area</u> ((excluding))excludes parking), and</p>	
	<p>b) ((c))Is any classified occupancy under the Seattle Building Code other than Residential, R-2 or R-3.</p>	
2.	A structure or any portion of a structure which:	Multi-family benchmarking
	<p>a) Has a gross <u>floor area</u> of more than 20,000 square feet, (<u>gross floor area excludes</u> ((excluding))parking).</p>	

	b) Is classified under the Seattle Building Code as a Residential Group R-2 occupancy.	
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Section 3. Section 22.920.020 of the Seattle Municipal Code, last amended by Ordinance 124919, is amended as follows:

22.920.020 Definitions

For purposes of this (~~chapter~~) Chapter 22.920 only (~~(, the following words shall mean)~~):

* * *

"Director" means the Director of the Seattle (~~Seattle Department of Construction and Inspections~~) Office of Sustainability and Environment or the Director's designee, and includes any person or agency or representative of such person or agency to whom authority is delegated under this Chapter 22.920.

* * *

"Energy Benchmarking" means the assessment of a building's energy use, greenhouse gas emissions, and efficiency.

* * *

Section 4. Section 22.920.030 of the Seattle Municipal Code, last amended by Ordinance 123993, is amended as follows:

22.920.030 (~~Nonresidential benchmarking buildings—preparing~~) Preparing energy and emissions benchmarking reports

1 Building owners of each building subject to nonresidential or multi-family benchmarking
2 requirements shall provide to the Director, using the Energy Star Portfolio Manager or a similar
3 rating system and in such form as established by Director's rule, energy and emissions
4 benchmarking reports and, where available, energy and emissions performance ratings for each
5 building according to the following schedule:

6 ~~((A. For buildings larger than 50,000 square feet and having an initial occupancy date~~
7 ~~before January 1, 2010, reports and ratings pertaining to benchmarking for the year 2011 shall be~~
8 ~~submitted by October 1, 2012. Reports and ratings pertaining to benchmarking for the year 2012~~
9 ~~shall be submitted by April 1, 2013, and thereafter, annual reports and ratings for each~~
10 ~~subsequent year shall be due each April 1.~~

11 ~~B.))~~ A.

12 For buildings having an initial occupancy date of January 1, 2023 or later, reports and
13 ratings pertaining to benchmarking for the year shall be submitted by June 1, 2024 and each
14 subsequent June 1 thereafter of the year following a complete calendar year of occupancy, as
15 determined by the date the Certificate of Occupancy is issued. ((By one year after the initial
16 occupancy date for all other buildings having an initial occupancy date of January 1, 2012 or
17 later)).

18 B. Newly constructed covered buildings that are not subject to benchmarking verification
19 per the compliance deadlines in Chapter 22.925.060, shall have a qualified person verify
20 benchmarking data for the first required benchmarking report under Chapter 22.920 with other
21 conditions established by rule.

1 Section 5. Section 22.920.040 of the Seattle Municipal Code, last amended by Ordinance
2 123993, is repealed:

3 ~~((22.920.040 Multi family benchmarking buildings—preparing energy benchmarking~~
4 ~~reports~~

5 ~~Building owners of each building subject to multi family benchmarking requirements shall~~
6 ~~provide to the Director, using the Energy Star Portfolio Manager or a similar rating system and~~
7 ~~in such form as established by Director's rule, energy benchmarking reports and, where available,~~
8 ~~energy performance ratings for each building according to the following schedule:~~

9 A. ~~By October 1, 2012 and by April 1 annually thereafter for buildings larger than~~
10 ~~50,000 square feet having an initial occupancy date before January 1, 2011;~~

11 B. ~~By April 1, 2013 and by April 1 annually thereafter for buildings larger than~~
12 ~~20,000 square feet having an initial occupancy date after January 1, 2011 and before January 1,~~
13 ~~2012; and~~

14 C. ~~By one year after the date of initial occupancy for all other buildings having an~~
15 ~~initial occupancy date of January 1, 2011 or later.))~~

16 Section 6. Section 22.920.120 of the Seattle Municipal Code, last amended by Ordinance
17 123993, is amended as follows:

18 **22.920.120 ((Sanctions))Penalties**

19 A. Fines for the failure of a building owner to prepare, submit or annually update energy
20 benchmarking reports and energy performance ratings as required by Section ((22.920.040))
21 22.920.030 shall be imposed as follows:

22 ~~((1. For Non-Residential buildings greater than 50,000 square feet having an initial~~
23 ~~occupancy date before January 1, 2011, upon the failure to submit the report and rating~~

1 ~~pertaining to benchmarking for the year 2011 by October 1, 2013, a fine of \$2,000 shall be~~
2 ~~imposed; upon the failure to submit such report and rating by January 1, 2013, the fine shall be~~
3 ~~increased to \$3,000; and upon the failure by April 1, 2013, the fine shall be increased to \$4,000.~~

4 ~~2. For multi-family buildings greater than 50,000 square feet having an initial occupancy~~
5 ~~date before January 1, 2011, upon the failure to submit the report and rating pertaining to~~
6 ~~benchmarking for the year 2011 by January 1, 2013, a fine of \$1,000 shall be imposed; upon the~~
7 ~~failure to submit such report and rating by April 1, 2013, the fine shall be increased to \$2,000;~~
8 ~~upon the failure to submit such report and rating by July 1, 2013, the fine shall be increased to~~
9 ~~\$3,000; and upon the failure by October 1, 2013, the fine shall be increased to \$4,000.~~

10 ~~3.))~~ 1. For annual reports and ratings pertaining to benchmarking for ~~((the year 2012))~~
11 2022 and each subsequent year ~~((thereafter))~~, for buildings greater than 50,000 square feet, for
12 each annual energy benchmarking report (including a performance rating when available), ~~((the~~
13 ~~following fines shall be imposed))~~ a fine of \$4,000 shall be imposed 90 days after the due date
14 for the failure to submit the report and performance rating ~~((by the following dates:-~~

15 ~~a. 90 days after April 1 due date—total fine of \$1,000—~~

16 ~~b. 180 days after due date—total cumulative fine of \$2,000—~~

17 ~~c. 270 days after due date—total cumulative fine of \$3,000—~~

18 ~~d. 360 days after due date—total cumulative fine of \$4,000))~~ provided,

19 however, that no fine shall be imposed when failure to prepare or report an energy benchmarking
20 report is due to a tenant's failure to provide information required under Section 22.920.050;

21 ~~((4.))~~ 2. For annual reports and ratings pertaining to benchmarking for the year ~~((the~~
22 ~~year 2012))~~ 2022 and each subsequent year ~~((thereafter))~~, for buildings equal to or ~~((fewer))~~
23 less than 50,000 square feet, for each annual energy benchmarking report (including a

1 performance rating when available), ~~((the following fines shall be imposed))~~ a fine of \$2,000
2 shall be imposed 90 days after the due date for the failure to submit the report and performance
3 rating ~~((by the following dates:—~~

4 ~~a. 90 days after April 1 due date—total fine of \$500—~~

5 ~~b. 180 days after due date—total cumulative fine of \$1,000—~~

6 ~~c. 270 days after due date—total cumulative fine of \$1,500—~~

7 ~~d. 360 days after due date—total cumulative fine of \$2,000))~~ provided,

8 however, that no fine shall be imposed when failure to prepare or report an energy benchmarking
9 report is due to a tenant's failure to provide information required under Section 22.920.050;

10 ~~((5.))~~ 3. The Director ~~((shall have the authority by Director's rule to))~~ by rule may
11 establish grace periods for imposing fines for any class of structure upon a finding that such
12 grace period will facilitate the submission of energy benchmarking reports and energy
13 performance ratings or otherwise further the purposes of this Chapter 22.920.

14 B. If the Director determines that a building owner has failed to disclose an energy
15 benchmarking report or energy performance rating as required by Section 22.920.080, the
16 Director may, in addition to any other remedy authorized by law or equity, ~~((seek the following~~
17 ~~remedies:))~~ impose a \$500 fine.

18 ~~((1. A \$150 fine imposed for the first violation,—~~

19 ~~2. A \$500 fine imposed for the second or subsequent violation, and—~~

20 ~~3. If a building owner of any building subject to this chapter has been previously issued a~~
21 ~~notice of violation under this chapter within the past two years, all subsequent violations by that~~
22 ~~building owner for failing to disclose an energy benchmarking report shall be subject to a \$500~~
23 ~~fine.))~~

1 C. If the Director determines that a tenant has failed to provide information to a building
2 owner as required under Section 22.920.050, the Director may, in addition to any other remedy
3 authorized by law or equity, ~~((seek the following remedies:))~~ impose a \$500 fine on the tenant.

4 ~~((1. A \$150 fine imposed for the first violation,–
5 2. A \$500 fine imposed for the second or subsequent violation, and–
6 3. If a tenant of any building subject to this chapter has been previously issued a
7 notice of violation under this chapter within the past two years, all subsequent violations by that
8 tenant for failing to provide information to a building owner as required under Section
9 22.920.050 shall be subject to a \$500 fine.))~~

10 D. If the Director determines that a building owner has submitted an inaccurate energy
11 benchmarking report or energy performance rating as required by this ~~((chapter))~~ Chapter
12 22.920, the Director may, in addition to any other remedy authorized by law or equity, seek the
13 following remedies:

- 14 1. A ~~(((\$150))~~ \$4,000 fine shall be imposed for ~~((the first violation))~~ buildings greater than
15 50,000 square feet;
- 16 2. A ~~(((\$500))~~ \$2,000 fine shall be imposed for ~~((the second and any subsequent~~
17 ~~violations))~~ for buildings equal to or less than 50,000 square feet.

18 1. The fines set forth in subsection 22.920.120.A shall be imposed by serving a
19 notice of violation that sets forth the specific violation, and shall state any penalties or fines
20 imposed~~((, the amounts of each increase in fines and the specific dates upon which each increase~~
21 ~~in fines will accrue)).~~ A building owner shall have 30 days from the date of mailing or service of
22 the notice of violation to seek an administrative review of the imposition of all such fines ~~((,~~
23 ~~including each increase in fines,~~ contained within the notice of violation. The initiation of such

1 an administrative review is governed by Section 22.920.130. The failure of a building owner to
2 initiate such an appeal within 30 days of the date of mailing or service of the notice of violation
3 shall be deemed a waiver of the right to such administrative review and any subsequent appeal or
4 request for mitigation to the Hearing Examiner under Section 22.920.155 or Section 22.920.160
5 of all fines contained within the notice of violation (~~((including each increase in fines))~~).

6 2. The fines set forth in subsections 22.920.120. B, 22.920.120. C, and 22.920.120. D
7 shall be imposed by serving a notice of violation stating each violation and each corresponding
8 penalty. Administrative review and appeal of all violations and penalties contained within a
9 notice of violation shall be governed in accordance with Sections 22.920.130, 22.920.155 and
10 22.920.160.

11 3. Any other violation of this (~~(chapter)~~) Chapter 22.920 shall be subject to the issuance
12 of a notice of violation and corresponding penalty provisions.

13 F. The Director by rule may raise penalty amounts to adjust for inflation or other relevant
14 market conditions. Penalty amounts may not be adjusted for compliance before 2036 and may be
15 revised every five years as warranted. Revised penalty amounts must be established two years
16 prior to the enacting year.

17 Section 7. Section 22.920.130 of the Seattle Municipal Code, last amended by Ordinance
18 123993, is amended as follows:

19 **22.920.130 Director (~~(A)~~) administrative Review of Notice of Violation ~~by~~ (~~by Director~~)**

20 A. A notice of violation shall be subject to administrative review if the aggrieved party
21 requests in writing a review by the Director within 30 days after service of the notice of
22 violation. When the last day of the review-request period is a Saturday, Sunday, or federal or
23 City holiday, the period shall run until five (5) (~~(=00))~~ p.m. on the next business day.

1 B. To be considered by the Director, the written request for review must be submitted
2 with the ~~((Energy Benchmarking and Reporting Violation Review Appeal Form))~~ benchmarking
3 violation appeal form, which will document the reason for the review.

4 C. After receiving a request for review, the Director shall notify the requesting party, the
5 building owners who were issued a notice of violation, and any person who requested notice of
6 the review that a request for review has been received.

7 D. The Director will review the basis for issuing the notice of violation and the
8 ~~((Violation Review Form))~~ benchmarking violation appeal form. The Director may request
9 clarification of information received. After the review is completed, the Director may sustain,
10 withdraw, modify, or amend the notice of violation, or continue the review to a date certain for
11 receipt of additional information. ~~((:~~

- 12 1. ~~Sustain the notice of violation,~~
13 2. ~~Withdraw the notice of violation,~~
14 3. ~~Continue the review to a date certain for receipt of additional information, or~~
15 4. ~~Modify or amend the notice of violation.))~~

16 E. The Director's administrative review decision is final. An aggrieved party may submit
17 a ~~((but is subject to a))~~ request for a mitigation hearing or a contested hearing before the Hearing
18 Examiner in accordance with Sections 22.920.155 and 22.920.160.

19 F. The Director by rule may establish grace periods for submitting an appeal.

20 Section 8. Section 22.920.170 of the Seattle Municipal Code, last amended by Ordinance
21 125000, is amended as follows:

1 A. Date and Notice. If a person requests a contested hearing, the hearing shall be held
2 within 60 days after the written response to the ~~((notice of violation))~~ administrative decision
3 requesting such hearing is received.

4 Section 9. A new Section 22.920.220 is added to the Seattle Municipal Code as follows:

5 **22.920.220 Penalty revenues**

6 Revenue from penalties under Chapter 22.920 shall be allocated in accordance with Section
7 22.925.140.

8 Section 10. Section 22.930.010 of the Seattle Municipal Code, enacted by Ordinance
9 125002, is amended as follows:

10 **22.930.010 Applicability**

11 This Chapter 22.930 applies to all non-residential buildings that are (1) equal to or larger than
12 50,000 square feet of floor area; and (2) are subject to ~~((Energy Benchmarking))~~ benchmarking
13 requirements in Section 22.920.010. For buildings with both residential and non-residential space
14 uses, this Chapter 22.930 applies to non-residential portions of a building where the non-
15 residential space is equal to or larger than 50,000 square feet of floor area.

16 This Chapter 22.930 shall expire on December 31, 2028.

17 Section 11. Section 22.930.020 of the Seattle Municipal Code, enacted by Ordinance
18 125002, is amended as follows:

19 **22.930.020 Definitions**

20 "Energy benchmarking" means the assessment of a building's energy use, greenhouse gas
21 emissions, and efficiency as required in Chapter 22.920.

22 Section 12. Section 22.930.040 of the Seattle Municipal Code, enacted by Ordinance
23 125002, is amended as follows:

1 **22.930.040 Exemptions and extensions**

2 A. Buildings meeting one or more of the following conditions may apply for an
3 exemption from complying with a single interval of tune-ups as required by this Chapter 22.930.
4 Building owners shall demonstrate they meet a condition for exemption by submitting evidence
5 of the condition to the OSE Director no later than 180 days before the tune-up compliance date
6 as specified in Section 22.930.050, unless the Director determines otherwise. The OSE Director
7 shall notify applicants within ~~((60))~~ 45 days of receiving an exemption request on the
8 determination of whether the exemption is granted. Conditions meeting an exemption include but
9 are not limited to:

10 1. Buildings with a high certified ENERGY STAR score preceding the tune-up
11 compliance date identified in Section 22.930.050, as determined by the Director;

12 2. Buildings that have received a green building certification that is equivalent to
13 standards accepted in the industry for an efficiently operating building within the three years
14 preceding the tune-up compliance date identified in Section 22.930.050. ~~((As of the date of the
15 ordinance introduced as Council Bill _____, a))~~ A green building certification could be
16 equivalent to ((a Gold Rating under the USGBC's LEED for Operations and Maintenance v4, or
17)) a Net-Zero Energy Certification from the International Living Future Institute or similar, as
18 determined by the OSE Director;

19 3. Buildings that can show evidence of active monitoring and continuous
20 commissioning, as determined by the Director;

21 4. Buildings that have participated in and successfully completed an approved
22 utility retro-commissioning incentive program in the three years preceding the tune-up
23 compliance date identified in Section 22.930.050;

1 5. Buildings that have completed a full retro- or re-commissioning procedure
2 within the three years preceding the tune-up compliance date identified in Section 22.930.050,
3 with documentation that building performance was optimized;

4 6. Buildings that can demonstrate energy savings of at least 15 percent in the three
5 years preceding the tune-up compliance date identified in Section 22.930.050;

6 7. Buildings that have undergone an energy audit no less stringent than the
7 ASHRAE Level II standard and implemented all of the no-cost/low-cost energy efficiency
8 measures, defined as providing a simple payback of three years or less, identified in the audit in
9 the three years preceding the tune-up compliance date identified in Section 22.930.050;

10 8. ~~((Buildings that have participated in the Seattle City Light Energy Assistance
11 Analysis program or equivalent, as determined by the OSE Director, and implemented the
12 program defined cost-effective measures within the three years preceding the tune-up
13 compliance date identified in Section 22.930.050;))~~ Buildings that can demonstrate compliance
14 with the Washington Clean Buildings Performance Standard as defined in chapter 194-50 WAC,
15 with documentation and verification as determined by the OSE Director by the mandated
16 schedule for tune-ups and reporting compliance dates identified in Section 22.930.050;

17 9. Buildings scheduled to be demolished within one year of the date the building
18 tune-up is due pursuant to Section 22.930.050, per documentation determined by the OSE
19 Director;

20 10. Buildings that demonstrate financial distress, such as being owned by a
21 financial institution through default of the borrower, or other conditions as determined by the
22 OSE Director ((-));

1 11. Buildings receiving their initial certificate of occupancy less than three years
2 before the tune-up compliance date identified in Section 22.930.050 ((-));

3 12. Buildings receiving approval for a second one-year extension, during the
4 second tune-up compliance interval of 2023 – 2026 and after January 1, 2024, as determined by
5 the Director.

6 B. The OSE Director is authorized to prescribe rules for requesting an exemption under
7 this Chapter 22.930.

8 Section 13. Section 22.930.050 of the Seattle Municipal Code, enacted by Ordinance
9 125002, is amended as follows:

10 **22.930.050 Schedule for tune-ups and reporting**

11 A. Building owners shall conduct an initial building tune-up according to the following
12 schedule. For buildings with both residential and non-residential uses, the compliance deadline
13 will be based on the square footage of non-residential use.

14 1. Buildings with non-residential uses of 200,000 square feet or larger shall
15 comply by October 1, 2018. Subsequent tune-ups shall be required by October 1 of every fifth
16 year thereafter.

17 2. Buildings with non-residential uses of at least 100,000 and less than 200,000
18 square feet shall comply by October 1, 2019. Subsequent tune-ups shall be required by October 1
19 of every fifth year thereafter.

20 3. Buildings with non-residential uses of at least 70,000 and less than 100,000
21 square feet shall comply by October 1, 2020. Subsequent tune-ups shall be required by October 1
22 of every fifth year thereafter.

1 4. Buildings with non-residential uses of at least 50,000 and less than 70,000
2 square feet shall comply by October 1, 2021. Subsequent tune-ups shall be required by October 1
3 of every fifth year thereafter.

4 B. Newly constructed buildings shall comply with the applicable schedule for the
5 building size pursuant to subsection 22.930.050.A.

6 C. A building owner may apply for a one-year compliance extension by showing good
7 cause. ~~((Receiving an extension does not alter the future schedule for compliance. By requesting
8 and receiving an extension, the building's next compliance schedule will be less than the typical
9 five-year schedule.))~~ The OSE Director is authorized to prescribe rules for applying for an
10 extension under this subsection 22.930.050.C. Conditions to receive an extension include but are
11 not limited to:

12 1. Buildings with less than 100,000 square feet with less than 50 percent of the
13 rentable floor area occupied, or buildings with greater than or equal to 100,000 square feet with
14 less than 50,000 square feet of the rentable floor area occupied.

15 2. Buildings or building owners that can demonstrate a disproportionate burden of
16 this Chapter 22.930, as determined by the OSE Director.

17 Section 14. Section 22.930.120 of the Seattle Municipal Code, last amended by Ordinance
18 125492, is amended as follows:

19 **22.930.120 Penalties**

20 A. Penalties for the failure of a building owner to comply with Section 22.930.030,
21 22.930.050, or 22.930.070 shall be imposed as follows for each five-year tune-up requirement
22 pursuant to the schedule in Section 22.930.050.

1 1. For buildings greater than or equal to 200,000 square feet, the following
2 penalties shall be imposed for the failure to tune-up a building and submit a report as required by
3 Section 22.930.050:

4 a. 180 days after October 1 due date — \$5,000;

5 b. 360 days after due date — \$20,000.

6 2. For buildings greater than or equal to 100,000 square feet and less than 200,000
7 square feet, the following penalties shall be imposed for the failure to tune-up a building and
8 submit a report by the following dates:

9 a. 180 days after due date — \$2,500;

10 b. 360 days after due date — \$10,000.

11 3. For buildings greater than or equal to 50,000 square feet and less than 100,000
12 square feet, the following penalties shall be imposed for failure to tune-up a building and submit
13 a report by the following dates:

14 a. 180 days after due date — \$2,000;

15 b. 360 days after due date — \$8,000.

16 4. The OSE Director ~~((shall have the authority by OSE Director's rule to))~~ by rule
17 may establish grace periods for imposing penalties for any class of structure upon a finding that
18 such grace period will facilitate completion of a tune-up of building energy and water systems
19 and the submission of a report to the City of findings, outcomes and actions taken based on the
20 tune-up ~~((energy benchmarking reports and energy performance ratings))~~ or otherwise further the
21 purposes of this Chapter 22.930.

22 B. ~~((If a building owner of any building subject to this Chapter 22.930 has been~~
23 ~~previously issued a notice of violation under this Chapter 22.930 within the past two years, all~~

1 ~~subsequent violations by that building owner for failing to disclose an energy benchmarking~~
2 ~~report shall be subject to a \$500 fine in addition to any other penalty imposed under this Chapter~~
3 ~~22.930.~~

4 ~~€.)~~) If the Director determines that a building owner or tune-up specialist has intentionally
5 misrepresented the results of a tune-up in its report, the OSE Director may, in addition to any
6 other remedy authorized by law or equity, may seek the following remedies:

7 1. A \$5,000 fine shall be imposed for ~~((the first violation))~~ buildings greater than
8 or equal to 100,000 square feet; and

9 2. A \$10,000 fine shall be imposed for ~~((the second and any subsequent~~
10 ~~violations))~~ buildings greater than or equal to 50,000 square feet and less than 100,000 square
11 feet.

12 ~~((D. An account shall be established in the City's General Fund to receive revenue from~~
13 ~~penalties under this Section 22.930.120. Revenue from penalties under this subsection~~
14 ~~22.930.120.D shall be allocated that aim to improve the energy and water efficiency of Seattle~~
15 ~~buildings. The OSE Director shall recommend to the Mayor and City Council how these funds~~
16 ~~should be allocated.))~~ C. Revenue from penalties under this Chapter 22.930 shall be allocated in
17 accordance with Sections 22.925.140.

18 ~~((E.))~~

19 1. The penalties in subsection 22.930.120.A shall be imposed by serving a notice
20 of violation in the manner set forth in RCW 4.28.080 for service of a summons or sent by first
21 class mail, addressed to the last known address of such person(s). Service shall be complete at
22 the time of personal service, or if mailed, three (3) days following the date of mailing. The notice
23 of violation shall state ~~((specific violation, the amounts of each increase in penalties, and the~~

1 ~~specific dates that each increase in penalties will accrue.))~~ amount of penalties imposed, each
2 requirement that was violated, the amounts of each increase in penalties, and what corrective
3 action is necessary to comply with the requirements. A building owner shall have 30 days from
4 the date of mailing or service of the notice of violation to seek an administrative review of the
5 imposition of the penalties, including each increase in penalties, contained in the notice of
6 violation. The initiation of an administrative review is governed by Section 22.930.140. The
7 failure of a building owner to initiate an appeal within 30 days of the date of mailing or service
8 of the notice of violation shall be a waiver of the right to an administrative review and a waiver
9 of any subsequent appeal or request for mitigation to the Hearing Examiner under Section
10 22.930.140 or Section 22.930.160 of all penalties contained within the notice of violation.

11 2. The penalties in subsection ((s)) 22.930.120.B ((and 22.930.120.C)) shall be
12 imposed by serving a notice of violation in the manner set forth in RCW 4.28.080 for service of a
13 summons or sent by first class mail, addressed to the last known address of such person(s).
14 Service shall be complete at the time of personal service, or if mailed, three (3) days following
15 the date of mailing. The notice of violation shall state ((each violation and each corresponding
16 penalty)) the amount of penalties imposed, each requirement that was violated, and what
17 corrective action is necessary to comply with the requirements. Administrative review and
18 appeal of all violations and penalties contained within a notice of violation shall be governed in
19 accordance with Sections 22.930.130, 22.930.140, 22.930.150 and 22.930.160.

20 3. Any other violation of this Chapter 22.930 shall be subject to the issuance of a
21 notice of violation and corresponding penalty provisions.

22 Section 15. Section 22.930.140 of the Seattle Municipal Code, enacted by Ordinance 125002, is
23 amended as follows:

1 **22.930.140 Director ~~((A))~~ administrative review of ~~((by OSE))~~ notice of violation**

2 * * *

3 B. To be considered by the OSE Director, the written request for review ~~((shall))~~ must be
4 submitted with the ~~((Building Tune-Up and Reporting Violation Review Form))~~ building tune-up
5 violation appeal form, which will document the reason for the review.

6 ***

7 F. The Director by rule may establish grace periods for submitting an appeal.

8
9 Section 16. The provisions of this ordinance are declared to be separate and severable.
10 The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this
11 ordinance, or the invalidity of its application to any person or circumstance, does not affect the
12 validity of the remainder of this ordinance or the validity of its application to other persons or
13 circumstances.

14 Section 17. This ordinance shall take effect and be in force 30 days after its approval by
15 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
16 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

17 Passed by the City Council the _____ day of _____, 2023,
18 and signed by me in open session in authentication of its passage this _____ day of
19 _____, 2023.

20 _____
21 President _____ of the City Council

