

**AN ORDINANCE BY  
COUNCILMEMBER C.T. MARTIN  
AS SUBSTITUTED BY  
ATLANTA CITY COUNCIL**

**15-O-1101**

**AN ORDINANCE TO AMEND VARIOUS ARTICLES OF CHAPTER 2 OF PART 8, COMMUNITY AND HUMAN DEVELOPMENT, OF THE LAND DEVELOPMENT CODE, PART III OF THE ATLANTA CITY CODE FOR THE PURPOSE OF INCREASING THE EFFICIENT USE OF ENERGY WITHIN THE COMMERCIAL SECTOR THROUGH THE REQUIREMENT OF ENERGY BENCHMARKING, BENCHMARKING DISCLOSURE, FACILITY RETROCOMMISSIONING, AND FACILITY ENERGY AUDITS OF BUILDINGS IN THE CITY OF ATLANTA; AND FOR OTHER PURPOSES.**

**WHEREAS**, Part III, Part 8, Community and Human Development, Chapter 2, Building Regulations, of the City of Atlanta Code of Ordinances sets out the requirements and procedures for the maintenance and use of buildings, electrical systems, heating and air conditioning systems, plumbing, and multifamily buildings; and

**WHEREAS**, Resolution 13-R-3417, adopted by the Atlanta City Council on August 19, 2013, and approved per City Charter Section 2-403 on August 28, 2013, authorized the Mayor or his designee, on behalf of the City of Atlanta (“City”), to apply for and accept a grant from the City Energy Project (“CEP”) Initiative and to execute any required agreements for participation and implementation thereunder; and

**WHEREAS**, the City seeks to embed sustainability best practices into Atlanta city government and across the community; and

**WHEREAS**, the City of Atlanta has been recognized by the U.S. Department of Energy and the White House as a leading southeast city for voluntary energy efficiency pilots and programs; and

**WHEREAS**, the City was selected as a participating city in and recipient of grant funds under the CEP Initiative, which is a joint project of the Natural Resources Defense Council, Inc., and the Institute for Market Transformation to improve the energy efficiency of existing buildings in ten major U.S. cities, funded jointly by Bloomberg Philanthropies, Doris Duke Charitable Foundation, and the Kresge Foundation; and

**WHEREAS**, the City is recognized as a key national actor in energy efficiency by its inclusion as one of ten cities for the City Energy Project; and

**WHEREAS**, the City has an interest in reducing energy consumption citywide by increasing the energy efficiency of existing buildings located within its jurisdictional limits, and in being a leader for initiatives related to economic development and environmental protection; and

**WHEREAS**, such goals and benefits can be obtained via energy efficiency best practices; and

**WHEREAS**, the City finds it to be in the interest of the public and the general welfare to adopt a standard policy regarding the efficient use of energy and water as it supports economic development, improves economic standing of the community, produces better public health outcomes and reduce emissions of greenhouse gases thereby benefiting the City's citizens and businesses and furthering the Mayor's sustainability initiatives for Atlanta.

**NOW THEREFORE, BE IT AND IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA** as follows:

**Section 1.** Section 8-2002 of the Land Development Code, Part III of the Atlanta City Code which is currently reserved is hereby amended and replaced in its entirety with the following:

*Sec. 8-2002. – Definitions*

*The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:*

*Atlanta Building identification number means a randomly-generated identification number that is stable and specific to a covered property.*

*Audit report means the final document produced by the energy auditor including but not limited to:*

- (a) the summary audit report,*
- (b) base building systems and equipment inventory,*
- (c) all reasonable measures, including capital improvements, that would, if implemented, reduce energy and water use and/or the cost of operating the building,*
- (d) for each measure, the associated annual energy or water savings, the cost to implement, the net present value, and the simple payback, calculated by a method determined by the Department,*
- (e) a list of recommended measures, chosen from among the measures, analyzed, and the interactive savings predicted from that package of measures,*
- (f) the building's benchmarking submission for the previous calendar year consistent with the United States Environmental Protection Agency (EPA) Portfolio Manager tool or as otherwise established by the Department,*
- (g) reporting of energy usage by system and predicted energy savings by system after implementation of the recommended measures, and*
- (h) reporting of water usage by system and predicted water savings by system after implementation of the recommended measures.*

- (i) *a general assessment of how the major energy and water consuming equipment and systems used within tenant spaces impact the energy and water consumption of the base building systems and narratives, photographs and any additional explanatory information as required to describe the results of the audit.*

*Base building systems means the systems or subsystems of a building that use or distribute energy and/or water and/or impact energy and/or water consumption, including:*

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

*EXCEPTION: base building systems shall not include:*

- (i) *Systems or subsystems owned by residential tenants, condominium unit owners or cooperative unit shareholders, or a system or subsystems for which such residential tenants, condominium unit owners or cooperative unit shareholders bear full maintenance responsibility and that is within the residential tenant's, condominium unit owner's or cooperative unit shareholder's leased or owned space and/or exclusively serves such leased or owned space.*
- (ii) *Systems or subsystems within a residential tenant's leased space and/or which exclusively serve such leased space and for which the tenant pays all the energy bills according to usage and demand as measured by a meter or sub-meter.*
- (iii) *Systems or subsystems owned by a non-residential tenant or for which a non-residential tenant bears full maintenance responsibility; and that is within the tenant's leased space and/or exclusively serves such leased space; and for which the tenant pays all the energy bills according to usage and demand as measured by a meter or sub-meter.*
- (iv) *Industrial processes.*

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

*Benchmarking submission means a subset of:*

- (a) *Information input into the benchmarking tool; and*
- (b) *Benchmarking information generated by the benchmarking tool, as determined by the Department.*

*Benchmarking tool means the U.S. Environmental Protection Agency's ENERGY STAR Portfolio Manager, or any other alternative benchmarking tool approved by the Department as materially equivalent to ENERGY STAR Portfolio Manager. The Department shall establish written guidelines for the approval application process.*

*Building management system means a computer-based system that monitors and controls a building's mechanical and electrical equipment, such as HVAC, lighting, power, fire, and security systems.*

*City means the City of Atlanta.*

*Covered city property means a property*

- (a) That, for the purposes of benchmarking and disclosure, has one or more buildings that together exceed 10,000 gross square feet in total combined floor area; or*
- (b) That, for the purposes of energy audits and retro-commissioning, has one or more buildings that exceed 25,000 gross square feet in total combined floor area; and*
- (c) That is owned by the city; and*
- (d) For which the city regularly pays all or part of the annual energy bills.*

*Covered non-city property means a property, other than covered city property,*

- (a) That is classified under State of Georgia Property Codes as Class C, E, P, or V; and,*
- (b) That, for the purposes of benchmarking and disclosure, has one or more buildings that together exceed 50,000 gross square feet in total combined floor area; or*
- (c) That has one or more buildings held in the condominium form of ownership that is governed by the same board of directors and that exceeds 50,000 gross square feet in total combined floor area; and*
- (d) That, for the purposes of energy audits and retro-commissioning, has one or more buildings that together exceed 50,000 gross square feet in total combined floor area; or*
- (e) That has one or more buildings held in the condominium form of ownership that is governed by the same board of directors and that exceeds 50,000 gross square feet in combined floor area, or*
- (f) That, after January 1, 2017, meets the criteria set forth in parts a-e of the definition of a covered non-city property, but exceeds 25,000 gross square feet in total combined floor area.*

*Covered property means any covered city property or covered non-city property.*

*Current facility requirements means the owner's current operational needs and requirements for a building, including temperature and humidity set points, operating*

*hours, filtration, and any integrated requirements such as controls, warranty review, and service contract review.*

*Data aggregation services means services provided by a utility to collect and aggregate the utility data of individually-metered space within a property into one property-wide consumption value.*

*Department means the Office of Sustainability or the director of the Office of Sustainability's designee, so long as said designee is an employee of the City of Atlanta.*

*Director means the director of the Office of Buildings or the director's designee, so long as said designee is an employee of the City of Atlanta*

*Disclosed benchmarking information means information generated by the benchmarking tool or other means and descriptive information about the physical property and its operational characteristics, that is disclosed to the public. The information shall include, but need not be limited to:*

- (a) Descriptive information*
  - i. Property address;*
  - ii. Primary use type;*
  - iii. Gross floor area as defined by ENERGY STAR Portfolio Manager's glossary;*
- (b) Output information*
  - i. Site energy use intensity (Site EUI);*
  - ii. Weather normalized site energy use intensity (Site EUI);*
  - iii. Total annual greenhouse gas emissions;*
  - iv. Water use per gross square foot;*
  - v. The ENERGY STAR score, where available; and*
- (c) Compliance or noncompliance with this ordinance.*

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

*Energy and water audit or audit means a systematic process of identifying and developing modifications and improvements of the base building systems, including but not limited to alterations of such systems and the installation of new equipment, insulation or other generally recognized energy and water efficiency technologies to optimize energy and water use performance of the building and achieve energy and water savings, provided that such process shall be at least as stringent as or comparable to the Level II Energy Survey and Engineering Analysis of the most recent edition of Procedures for Commercial Building Energy Audits published by the American Society of Heating, Refrigerating and Air-conditioning Engineers Inc. (ASHRAE). No-cost/reduced cost energy audits provided for commercial customers that approximate the standard required under this definition of an energy audit shall qualify for compliance with the*

*energy audit requirements of Article J, as determined by the Department. Water audits shall not be required until the calendar year after the Department determines that appropriate standards and certifications exist and must utilize the procedure for new rules detailed in Section 8-2235.*

*Energy auditor means an individual possessing one or more certification(s) as follows:*

- (a) a registered architect, professional engineer, or certified energy manager with 2 or more years of auditing experience;*
- (b) an individual with auditing certification(s) from the Association of Energy Engineers, the Associated Air Balance Council, or the American Society of Heating, Refrigerating, and Air-Conditioning Engineers with 2 or more years of auditing experience;*
- (c) An individual or firm with 5 or more years of auditing experience;*
- (d) An individual with the certifications described in (a) or (b) with 2 or more years of building energy management experience in the building undertaking an energy audit.*

*Individuals possessing said certifications may perform or directly supervise individuals performing energy audits and certify audit reports required by this ordinance. After the establishment of a US Department of Energy (DOE)-recognized standard, the Department may adopt the qualifications of the DOE-recognized standard with modifications as the Department deems to be appropriate.*

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

*ENERGY STAR score means the 1-100 numeric rating generated by the ENERGY STAR Portfolio Manager tool*

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

*Financial hardship (of a property) means a property that:*

- (a) Had arrears of property taxes or water or wastewater charges that resulted in the property's inclusion, within two years prior to the due date of a summary audit report, on the City of Atlanta Department of Finance's annual tax lien sale list;*
- (b) Has a court appointed receiver in control of the asset due to financial distress;*
- (c) Is owned by a financial institution through default by the borrower;*
- (d) Has been acquired by a deed in lieu of foreclosure; or*
- (e) Has a senior mortgage subject to a notice of default.*

*Master meter means a single meter that records energy or water consumption for an entire building.*

*Net present value means the value in today's dollars of all future costs and benefits from an investment over a twenty year time horizon or the lifetime of the equipment, whichever is shorter, analyzed with a 3% discount rate per United State Office of Management and Budget Circular A-4 guidance.*

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

*Owner means any of the following:*

- (a) An individual or entity possessing title to a covered property or covered city property;*
- (b) The net lessee in the case of a property subject to a triple net lease that is the single tenant, regardless of tax parcel ownership;*
- (c) The net lessee in the case of a building subject to a net lease with a term of at least forty-nine years, inclusive of all renewal options;*
- (d) The board of directors in the case of a condominium;*
- (e) The board of directors in the case of a cooperative apartment corporation; or*
- (f) An agent authorized to act on behalf of any of the above.*

*Property means the tax parcel as designated by the appropriate county agency.*

*Registered design professional means a professional engineer, registered architect, or an individual or entity possessing other credentials approved by the department.*

*Rentable floor area means the combined leasable or occupant space of a property as defined by the current and appropriate version of the ANSI/BOMA Z65 Standard Methods of Measurement that is applicable to the buildings on said property.*

*Retro-commissioning means a process that systematically identifies and corrects building system problems to achieve optimal building performance. This includes planning, investigation, implementation, evaluation, and documenting that the facility and/or its systems and assemblies are operated, maintained, and tuned to improve building performance.*

*Retro-commissioning measure means a correction that has been identified during the analysis phase of retro-commissioning.*

*Retro-commissioning professional means an individual authorized by the Department to certify retro-commissioning reports required by this ordinance. Until such time as there is a U.S. Department of Energy ("DOE")-recognized standard establishing qualifications for persons who perform retro-commissioning and such standard has been adopted by the Department, a retro-commissioning professional or member(s) of the team such professional supervises shall meet at least one of the following qualifications:*

- (a) Professional engineer, registered architect, or certified energy manager with 2 or more years of commissioning experience;
- (b) Hold certification(s) with the Associated Air Balance Council, National Environmental Balancing Bureau, Association of Energy Engineers, the University of Wisconsin-Madison, or the American Society of Heating, Refrigerating, and Air-Conditioning Engineers as a commissioning authority with 2 or more years of commissioning experience;
- (c) An individual or a firm with 5 or more years of commissioning experience.
- (d) An individual with the certifications described in (a) or (b) with 2 or more years of building energy management experience in the building undertaking retro-commissioning.

After the establishment of such a DOE-recognized standard, the Department may adopt the qualifications of the DOE-recognized standard with such modifications as the Department deems to be appropriate.

*Retro-commissioning report means the final document produced by the retro-commissioning professional including but not limited to:*

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

*Simple payback means the number of years for the projected annual energy savings to equal the amount invested in the energy conservation measure, as determined by dividing the investment by the annual energy savings.*

*Space means an area within a building enclosed by floor to ceiling walls, partitions, windows and doors.*

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



*Summary audit report means the abbreviated report certified by the energy auditor on a form determined by the Department that shall include at a minimum:*

- (a) Information on the energy auditor and his/her team,*
- (b) The date the audit was completed,*
- (c) Property information (such as building address, building age, gross floor area as defined by ENERGY STAR Portfolio Manager's glossary, number of buildings on the property, etc.).*
- (d) The total number of identified recommended measures, the estimated sum of total installed costs and the estimated value of savings from the implementation of said measures.*

*Summary retro-commissioning report means the abbreviated report certified by the retro-commissioning professional on a form determined by the Department that shall include at a minimum:*

- (a) Retro-commissioning team information,*
- (b) The date the retro-commissioning was completed,*
- (c) Property information (such as building address, building age, gross floor area as defined by ENERGY STAR Portfolio Manager's glossary, number of buildings on the property, etc.),*
- (d) The total number of identified recommended measures, the estimated sum of total installed costs and the estimated value of savings from the implementation of said measures.*

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

*Tenant means a person or entity occupying or holding possession of a building, part of a building or premises pursuant to a rental agreement, contract lease, or license agreement for the rental or use of the real property;*

*Utility means an entity that distributes and sells natural gas, electric, oil or thermal energy services for buildings.*

*Water auditor means an individual possessing such credentials as determined by the Department to perform or directly supervise individuals performing water audits and to certify audit reports required by this ordinance."*

**Section 2.** That Part III, Part 8, Community and Human Development, Chapter 2, Building Regulations, of the Land Development Code of the City of Atlanta City Code of Ordinances be amended by adding a new Article (J) as follows:

*"Article J. Energy and Water*

*Section 8-2222. – Benchmarking Requirements.*

*(a) No later than April 1, 2015, and no later than every June 1 each year thereafter, each covered city property shall be benchmarked for the previous calendar year by the City Department primarily responsible for the management of such property, in coordination with the Department.*

*Exception: Benchmarking is not required for a covered city property:*

- (1) if the property does not have a Certificate of Occupancy or temporary Certificate of Occupancy for the entire calendar year being benchmarked, or*
- (2) if full demolition permit has been issued, provided that demolition work has commenced, some energy-related systems have been compromised or legal occupancy is no longer possible prior to June 1, or*
- (3) if the property does not receive utility services.*

*(b) No later than 90 days after the passage of this ordinance, and every June 1 thereafter, the owner of a covered non-city property shall benchmark such property for the previous calendar year.*

*Exception: Benchmarking is not required for a covered non-city property:*

- (1) if the property does not have a Certificate of Occupancy or temporary Certificate of Occupancy for the entire calendar year being benchmarked, or*
- (2) if a full demolition permit has been issued, provided that demolition work has commenced, some energy-related systems have been compromised or legal occupancy is no longer possible prior to June 1, or*
- (3) if more than 50% of the tenants in the covered non-city property are residential tenants and,  
(i) the electric utility does not provide data aggregation services or,  
(ii) the owner does not have access to master meters or other means. Once such services are available from the utility, as determined by the Department, such buildings will no longer be exempt from benchmarking requirements, and such buildings shall file initial benchmarking reports in the year following such data availability according to the schedule established in this Section, or*
- (4) if more than 50% of the tenants in the covered non-city property are lodging tenants, such as hotel or motel patrons, and,  
(i) the electric utility does not provide data aggregation services or,  
(ii) the owner does not have access to master meters or other means. Once such services are available from the utility, as determined by the Department, such buildings will no longer be exempt from benchmarking requirements, and such buildings shall file initial benchmarking reports in the year following such data availability according to the schedule established in this Section, or*
- (5) if the property owner is not responsible for any part of the operations, maintenance or utility costs of base building systems, and the conditions of Section 8-2222(b)(3)(i) or Section 8-2222(b)(3)(ii) are applicable, or*
- (6) if the property qualifies as under financial hardship, or*
- (7) if the property does not receive utility services.*

- (c) *The owner shall annually provide a benchmarking submission for each covered property to the Department, in the electronic form of a Portfolio Manager Data Request Report with information and metrics included as established by the Department's rule, by the date specified in Sections 8-2222(a) and (b).*
- (d) *The Department will make educational materials publicly available, which may include but are not limited to, how-to guides, public seminars, and 3<sup>rd</sup> party assistance.*

*Section 8-2223. – Benchmarking Data Collection.*

- (a) *An owner shall enter data into the Benchmarking Tool in accordance with the following:*
  - (1) *Whenever possible, owners should benchmark their building(s) using whole-property utility data:*
    - (i) *Whole-property utility data can be obtained by receiving data from all tenants, from master meters, or from a utility company; or*
    - (ii) *If a utility company has made aggregated utility data available to owners prior to two months before the reporting date of that calendar year, then an owner must benchmark using whole-property utility data for that utility.*
  - (2) *When an owner does not have whole-property information sufficient to fulfill these requirements and has made a reasonable effort to obtain from a tenant the information required, but that information has not been received from that tenant, the owner shall not be relieved of their benchmarking obligations, and must complete benchmarking using such alternate values as established by the Department. The Department shall evaluate the quality of any alternate values and propose options that increase the quality of such values prior to Dec. 31, 2015, and not less than once every 10 years thereafter.*

*Section 8-2224. – Notification of Requirement to Benchmark.*

- (a) *Between January 1 and April 30 of each year that benchmarking requirements are in effect, the Department shall notify owners of their obligation to benchmark for the previous calendar year, provided that the failure of the Department to notify any such owner shall not affect the obligation of such owner to benchmark.*
- (b) *By December 31 of each year that benchmarking requirements are in effect, the Department shall publicly post on the internet a list of all covered properties that must provide a benchmarking submission to the Department during the following year.*

*Section 8-2225. – Provision of Benchmarking Information to the Property Owner.*

- (a) *Each nonresidential tenant located in a covered property shall, to the best of their ability, within 30 days of a request by the owner and in a form to be determined by the Department, provide all information that cannot otherwise be acquired by the owner and that is needed by the owner to comply with the requirements of this ordinance.*
- (b) *If a tenant of a unit in a covered property fails to provide information to the owner, the owner shall be considered to have made reasonable effort and be in compliance if the owner proves that the owner has requested the tenant to provide necessary information for input into the benchmarking tool, providing the tenant 30 days to respond, and the owner has benchmarked the property, using all information otherwise available to the owner.*
- (c) *When an owner receives notice that a tenant intends to vacate a unit or other space before reporting benchmarking information, the owner shall request information relating to said tenant's energy use and any other necessary data relevant to the owner's obligation to benchmark.*

#### *Correction of Inaccurate Information*

- (d) *Where the current owner learns that any information reported in the benchmarking tool is inaccurate or incomplete, the information so reported shall be amended in the benchmarking tool by the owner and the owner shall submit an updated benchmarking report to the Department within 60 days of learning of the inaccuracy.*

#### *Section 8-2226. – Benchmarking Disclosure.*

- (a) *The Department shall electronically make available to the public the disclosed benchmarking information for the previous calendar year for all city covered properties and for covered non-city properties with an energy performance better than or equal to the national median as determined by an EPA Energy Star score greater than or equal to a score of 50. If there is no EPA Energy Star score for a covered property, an energy use intensity less than or equal to the national median established by the most recent Commercial Buildings Energy Consumption Survey or Residential Energy Consumption Survey of the Energy Information Administration. The Department shall make available to the public and update annually the following information:*
  - (1) *Summary statistics of overall compliance;*
  - (2) *Annual non-financial summary statistics for each building, including energy and water consumption, weather-normalized energy and water use intensity, energy performance score, greenhouse gas emissions, and a comment field to add context to the reported values;*
  - (3) *A means of comparing benchmarking information across calendar years for any years such building was benchmarked.*

(b) *The Department shall make public benchmarking data for covered properties according to the following schedule and illustrated in the following chart:*

- (1) *Covered city properties by July 1, 2015 and September 1, 2016;*
- (2) *Covered city properties and covered non-city properties by September 1, 2016 and every year thereafter.*

<i>Property Type</i>	<i>Covered City Property</i>	<i>Covered Non-City Property, 50,000 sqft+</i>	<i>Covered Non-City Property, 25,000 sqft+</i>
<i>Date first benchmarking submission due</i>	<i>April 2015</i>	<i>90 days after passage</i>	<i>June 2017</i>
<i>Date of first benchmarking disclosure</i>	<i>July 2015</i>	<i>September 2016</i>	<i>September 2017</i>

*Section 8-2227. – Energy and Water Audit Required.*

(a) *The owner of a covered property shall ensure that an audit is performed on the base building systems of such property, an audit report is generated, and a summary audit report is filed with the Department. An audit shall be performed by or under the supervision of an energy auditor and shall be performed in accordance with rules promulgated by the Department. The audit process shall cover the base building systems and shall identify at a minimum all items defined in the audit report.*

*Exceptions: No audit is required if the owner demonstrates that a property qualifies for one or more exceptions under Section 8-2222(b) or complies with one of the following as certified by a registered design professional:*

- (1) *The covered property has received an EPA Energy Star certification from the EPA for at least two of the three years preceding the due date of the property’s summary audit report.*
- (2) *There is no EPA Energy Star rating for the building type and a registered design professional submits documentation, as specified in rules promulgated by the Department, that the property’s energy performance is 25 or more percentage points better than the performance of an average building of its type over a two-year period within the three-year period prior to the due date for the property’s summary audit report consistent with the methodology of the most recent Leadership in Energy and Environmental Design (LEED) for Existing Buildings: Operation and Maintenance rating system published by the United States Green Building Council (USGBC) or other rating system or methodology for existing buildings, as determined by the Department.*
- (3) *The covered property has improved its EPA Energy Star score by 15 points or the property’s weather-normalized source energy use intensity has been reduced by 15% within the five years preceding the filing of the property’s summary audit report.*

(4) *The covered property has achieved or maintained the most recent LEED for Existing Buildings: Operations and Maintenance certification for at least two of the three years preceding the due date of the property’s summary audit report.*

(b) *For properties qualifying for exceptions under Section 8-2227(a), the owner shall file documentation, in such form and with such certifications as required by the Department, with the Department in the year prior to the due date for the summary audit report, establishing that the property qualifies for such an exemption.*

**Section 8-2228. – Due Dates for Summary Audit Reports**

(a) *The owner of a covered property shall file a summary audit report for such property every ten years. The first summary audit report for covered properties shall be due, beginning with calendar year 2016, no later than December 31, in the calendar year with a final digit that is the same as the last digit of the property’s Atlanta Building identification number, and every tenth calendar year thereafter, as illustrated in the following chart:*

<i>Last digit of Atlanta Building ID number</i>	0	1	2	3	4	5	6	7	8	9
<i>Year first summary audit report is due</i>	20_0	20_1	20_2	20_3	20_4	20_5	20_6	20_7	20_8	20_9

**Exceptions:**

- (1) *An owner may apply for an extension of time to file a summary audit report if despite such owner’s good faith efforts, to be documented in such application, the owner is unable to complete the required audit prior to the scheduled due date for such report. The Department may grant no more than two such extensions of no more than one year each. Extensions granted pursuant to this provision shall not extend the scheduled due dates for subsequent summary audit reports.*
- (2) *An owner may receive annual extensions of time to file a summary audit report based on financial hardship of the property, regardless of building occupancy levels. Properties with less than 50% of the rentable floor area leased or occupied may apply for an additional annual extension, not to exceed three such extensions. A substantial decrease in the quantity of no-cost/reduced-cost audits available to the market, as determined by the Department, shall also qualify owners for an additional annual extension, not to exceed three such extensions, and to be documented in such application. Extensions granted pursuant to this provision shall not extend the scheduled due dates for subsequent summary audit reports.*
- (3) *An owner of a building converted from State of Georgia Property Code Class I to Class C, E, P, or V will receive an Atlanta Building ID number such that the first summary audit report is due no sooner than five years from the year of conversion.*

- (4) *Other due date exceptions pursuant to Section 8-2231.*
- (b) *Owners of covered non-city properties that are less than 10 years old when the first summary audit report would otherwise be due, or that have undergone substantial improvements, as certified by a registered design professional, and in which base building systems of such property were commissioned upon installation, within the 10 year period prior to any calendar year in which a summary audit report is due, such that at the commencement of such calendar year all of the base building systems of such property are in compliance with the city energy code in existence at the time this ordinance takes effect (see City of Atlanta Code of Ordinances Part III, Section 8-2 and associated appendices), may defer submitting a summary audit report for such property until the tenth calendar year after such assigned calendar year.*
- (c) *A randomly-selected subset of audit reports not to exceed 10% of the total audit reports completed in a given year may be subject to third-party review of report documents. Such reviews shall be conducted in a way so as to preserve the anonymity of individual properties and shall be conducted at no cost to the property owner.*

*Section 8-2229. – Retro-commissioning Optional.*

- (a) *This section is currently optional. Owners electing to comply with this section should adhere to the following requirements. Retro-commissioning, proven to be a key component of a comprehensive energy policy, may be revisited at a future date. The owner of a covered property shall ensure that retro-commissioning is performed on the base building systems of such property prior to filing a summary retro-commissioning report. Retro-commissioning shall be performed by or under the supervision of a retro-commissioning professional in accordance with the rules in this section. Such rules, at a minimum, shall ensure that sufficient analysis, corrections and testing have been done so that the base building systems achieve optimal performance.*

*Exceptions:*

- (1) *Retro-commissioning is not required if the owner demonstrates that a property qualifies for one or more exceptions under Section 8-2222(b).*
- (2) *Retro-commissioning is not required if the covered property has received an EPA Energy Star certification from the EPA for at least two of the three years preceding the due date of the property's summary retro-commissioning report.*
- (3) *Retro-commissioning is not required if there is no EPA Energy Star rating for the building type and a registered design professional submits documentation, as specified in rules promulgated by the Department, that the property's energy performance is 25 or more percentage points better than the performance of an average building of its type over a two-year period within the three-year period prior to the due date for the property's summary retro-commissioning report consistent with the methodology of the most recent Leadership in Energy and Environmental Design (LEED) for Existing*

*Buildings: Operation and Maintenance rating system published by the United States Green Building Council (USGBC) or other rating system or methodology for existing buildings, as determined by the Department.*

- (4) Retro-commissioning is not required if the covered property has received certification under the most recent Leadership in Energy and Environmental Design (LEED) for Existing Buildings: Operation and Maintenance rating system published by the USGBC or other rating system for existing buildings, as determined by the Department, within two years prior to the filing of the property's summary retro-commissioning report and earned the LEED point for Existing Building Commissioning investigation and analysis and the LEED point for Existing Building Commissioning implementation.*
- (5) Retro-commissioning is not required if the covered property is subject to ongoing commissioning, provided the property owner attests to compliance with all criteria set forth in the rules promulgated by the Department. Ongoing commissioning may be performed by qualified on-site staff, so long as other compliance criteria are met.*
- (6) Retro-commissioning is not required for properties with less than 50% of the rentable floor area leased or occupied.*
- (7) A retro-commissioning measure is not required if such retro-commissioning measure would necessitate a building permit other than an electrical permit.*
- (8) A retro-commissioning measure is not required if such retro-commissioning measure would result in a simple payback of more than 2 years.*

*For properties qualifying for exceptions in Section 8-2229(a)(1) through (a)(6), the owner shall file documentation, in such form and with such certifications as required by the Department, with the Department in the year prior to the due date for the summary retro-commissioning report, establishing that the property qualifies for such an exemption.*

*(b) The retro-commissioning rules ensure that the base building systems have undergone sufficient analysis, corrections and testing to meet the following criteria demonstrating efficient operation.*

- 1. Operating protocols, calibration, and sequencing:*
  - a. HVAC temperature and humidity set points and setbacks are appropriate and operating schedules reflect major space occupancy patterns and the current facility requirements*
  - b. HVAC sensors are properly calibrated for current facility requirements*
  - c. HVAC controls are functioning and control sequences are appropriate for current facility requirements*
  - d. Loads are distributed equally across equipment when appropriate (i.e., fans, boilers, pumps, etc., that run in parallel)*
  - e. Minimum ventilation rates are appropriate for current facility requirements*
  - f. System automatic reset functions are functioning appropriately, if applicable*



- g. *Static pressure controls are appropriately set, if applicable*
- h. *System pressure controls are appropriately optimized, if applicable*
- i. *Adjustments have been made to compensate for oversized or undersized equipment so that said equipment is functioning as efficiently as possible, ensuring that overheating or overcooling does not occur and that minimum variable air volume positions are appropriately set, if applicable*
- j. *HVAC system economizer controls are properly functioning, if applicable*
- k. *HVAC distribution systems, both air and water, are verified as appropriately balanced, with the exception of tenant-owned systems*
- l. *Exhaust ventilation systems do not have leakage gaps at the connection to the intake registers or at the connections to the roof exhaust vents*
- m. *Lighting sensors and controls are functioning properly according to occupancy, schedule, and/or available daylight, where applicable*
- n. *Domestic hot water systems have been checked to ensure proper temperature settings*
- o. *Domestic water pumps are functioning as designed*
- p. *System and fixture water leaks have been identified and repaired*
- 2. *Maintenance:*
  - a. *Review and comment on routine maintenance practices*
- 3. *Training and documentation:*
  - a. *Critical operations and maintenance staff receive or confirm appropriate training during the commissioning effort on all major equipment and systems and general energy and water conservation techniques*
  - b. *Operational and maintenance record keeping procedures (log books, computer maintenance records, facility manuals, etc.) have been implemented*
  - c. *The following documentation is on-site and accessible to the operators: the operations and maintenance manuals, if such manuals are still available from the manufacturer; the maintenance contracts, and; the most recent retro-commissioning report.*

*Section 8-2230. – Due Dates for Summary Retro-commissioning Reports.*

*(a) This section is currently optional. Owners electing to comply with this section should adhere to the following requirements. Retro-commissioning, proven to be a key component of a comprehensive energy policy, may be revisited at a future date. The owner of a covered property shall file a summary retro-commissioning report for such property every ten years. The first summary retro-commissioning report for covered properties shall be due, beginning with calendar year 2016, no later than*

December 31, in the calendar year with a final digit that is the same as the last digit of the property's Atlanta Building identification number, and every tenth calendar year thereafter, as illustrated in the following chart:

<i>Last digit of Atlanta Building ID number</i>	0	1	2	3	4	5	6	7	8	9
<i>Year first summary retro-commissioning report is due</i>	20_0	20_1	20_2	20_3	20_4	20_5	20_6	20_7	20_8	20_9

*Exceptions:*

- (1) *An owner may apply for an extension of time to file a summary retro-commissioning report if despite such owner's good faith efforts, to be documented in such application, the owner is unable to complete the required retro-commissioning prior to the scheduled due date for such report. The Department may grant no more than two such extensions of no more than one year each. Extensions granted pursuant to this provision shall not extend the scheduled due dates for subsequent summary retro-commissioning reports.*
  - (2) *An owner may receive annual extensions of time to file a summary retro-commissioning report based on financial hardship of the property.*
  - (3) *An owner of a building converted from State of Georgia Property Code Class I to Class C, E, P, or V will receive an Atlanta Building ID number such that the first summary retro-commissioning report is due no sooner than five years from the year of conversion.*
  - (4) *Other due date exceptions pursuant to Section 8-2231.*
- (b) *The owner of a covered non-city property that is less than 10 years old when the first summary retro-commissioning report would otherwise be due, or that has undergone substantial improvements, as certified by a registered design professional, and in which base building systems of such property were commissioned upon installation, within the 10 year period prior to any calendar year in which a summary retro-commissioning report is due, such that at the commencement of such calendar year all of the base building systems of such property are in compliance with the city energy code in existence at the time this ordinance takes effect (see City of Atlanta Code of Ordinances Part III, Section 8-2 and associated appendices), may defer submitting a summary retro-commissioning report for such property until the tenth calendar year after such assigned calendar year. These exemptions do not apply to covered city properties. A summary retro-commissioning report for a covered city property constructed after the effective date of this ordinance shall be due within 10 years after the issuance of the first certificate of occupancy for such property.*

*Section 8-2231. – Compliance Window.*

- (a) *Notwithstanding any other provision of this ordinance, an owner may submit a summary audit or retro-commissioning report prior to the compliance schedule set forth in Section 8-2228 and Section 8-2230. An owner may submit a summary audit or retro-commissioning report no more than 9 years prior to each due date for a summary audit. A summary audit or retro-commissioning report may be submitted no less than 5 years and no more than 15 years after any previously submitted summary audit or retro-commissioning report.*
- (b) *Notwithstanding any other provision of this ordinance, an owner may submit a summary energy audit or retro-commissioning report in the calendar year commencing January 1, 2016 and ending December 31, 2016, in order to achieve early compliance with Section 8-2227 and Section 8-2229. A summary energy audit or retro-commissioning report shall be acceptable for compliance if the audit or retro-commissioning activity was completed after January 1, 2010. Such reports must comply with the requirements set forth in Section 8-2227 and Section 8-2229 and include the address of the building, completion of the audit or retro-commissioning, and the signature and credentials of the registered design professional performing or supervising the performance of the audit or retro-commissioning team. A summary energy audit or retro-commissioning report meeting these criteria submitted for early compliance shall be deemed to satisfy the first required energy audit or retro-commissioning report as assigned in Section 8-2228 and Section 8-2230. The next required energy audit or retro-commissioning report shall be due in the tenth calendar year after the first assigned due date for such report.*

*Section 8-2232. – Combined Audit and Retro-commissioning.*

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

*Section 8-2233. – Maintenance of Records of Benchmarking and Audits.*

- (a) *Building owners shall maintain records as the Department determines is necessary for carrying out the purposes of Section 8-2222, including but not limited to the energy and water bills and reports or forms received from tenants and/or utilities. Such records shall be preserved for a period of three years. At the request of the Department, such records shall be made available for inspection and audit by the Department.*
- (b) *Owners shall maintain a copy of the audit or retro-commissioning report and summary audit or retro-commissioning report on site for a minimum of eleven years from the required submission date. At the request of the Department, such reports shall be made available for inspection.*

*Section 8-2234. – Notification by the City of Auditing Requirements.*

(a) *The Department shall notify the owner of the requirements of this ordinance three years prior to the calendar year in which the covered property's summary audit report is due and in the calendar year prior to the calendar year in which such report is due for reports due in 2019 and beyond. Such notification may occur electronically via a posting to the Department website and failure to provide such notification shall not relieve the property owner of the requirement to comply with Sections 8-2227.*

*Section 8-2235. – Rules.*

*The Department shall promulgate such rules necessary to carry out the provisions of this Article. If the Department finds it necessary to issue new rules beyond those called for in this Article or to amend this Article, such rules must be presented to a working group of affected parties and relevant stakeholders. This group will be formed within 90 days of the passage of this ordinance and prior to amending the ordinance and will consist of no more than 9 members and 2 ad hoc appointees. The Department may require separate fees for filing and review of applications and reports filed pursuant to this ordinance. The Department may also allow for the use of new and/or improved energy auditing technologies, including software monitoring and interval metering, as such technologies become available.*

*Section 8-2236. – Severability.*

(a) *If any section, subsection, sentence, clause, phrase, or other portion of this ordinance is for any reason declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this ordinance, which shall continue in full force and effect.*

*Section 8-2237. – Timing.*

(a) *This law shall take effect immediately.*”

**Section 3.** Section 8-2094(c) of Part 8, Community and Human Development, Chapter 2, Building Regulations, of the Land Development Code, Part III of the Atlanta City Code, shall be amended by adding subsections (7) and (8) which shall read as follows:

(7) *Notwithstanding the foregoing, failure to comply with any provision of Section 8-2222 through Section 8-2226 or to misrepresent any material fact in a document required to be prepared or disclosed by said sections shall result in the following:*

- i. a written warning issued by the City for the first violation; and*
- ii. if initial benchmarking information or updated benchmarking information is not reported within 30 days of the date the written warning is issued, said failure shall constitute an offense and shall be punishable upon conviction by a fine of \$1,000. Each year of non-compliance shall constitute a separate offense*

*punishable upon conviction by a fine of \$1,000.*

*(8) Notwithstanding the foregoing, failure to comply with any provision of Section 8-2227 through Section 8-2228 or the building owner submits incomplete or false information, shall result in the following:*

*i. a written warning issued by the City for the first violation; and*

*ii. if the summary audit report information is not reported within 90 days of the date the written warning is issued, said failure shall constitute an offense and shall be punishable upon conviction by a fine of \$1,000. Each year of non-compliance shall constitute a separate offense punishable upon conviction by a fine of \$1,000.*

**Section 4.** All ordinances in conflict with this ordinance are hereby waived to the extent of the conflict.