

**BOARD BILL NUMBER \_\_\_\_\_ INTRODUCED BY ALDERMAN JACK  
COATAR AND ALDERWOMAN HEATHER NAVARRO**

1 An ordinance entitled “Building Energy Performance Standard”; the purpose of this ordinance is  
2 to establish energy performance standards for certain buildings in the City of St. Louis (“City”).

3 **WHEREAS**, the City has set a goal of reducing community-wide greenhouse gas emissions of  
4 one hundred percent (100%) by 2050 from 2005 levels; and

5 **WHEREAS**, the source of approximately eighty percent (80%) of greenhouse gas emissions in  
6 the City of St. Louis is existing commercial, residential and industrial buildings;

7 **WHEREAS**, research has demonstrated that the reduction of greenhouse gas emissions likely to  
8 contribute to regional carbon reductions that will result in better air quality, which is important  
9 for health and well-being;

10 **WHEREAS**, the City has previously adopted Ordinance Number 70474, entitled “Building  
11 Energy Awareness” which established energy benchmarking and reporting requirements for  
12 certain buildings; which also aims to raise awareness about the opportunities to reduce energy  
13 use and greenhouse gas emissions from our largest buildings to help meet the City’s climate  
14 goals; the City has collected two years of benchmarking data and sees an opportunity for these  
15 buildings to improve;

16 **WHEREAS**, the City desires through this article to establish energy performance standards for  
17 certain buildings within its jurisdiction in order to save money on energy costs while further  
18 reducing greenhouse gas emissions.

19 **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

20 That by and through this ordinance entitled “Building Energy Performance Standards”, this  
21 Board seeks to establish energy standards for certain buildings in the City.

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**1 SECTION ONE. Purpose and Policy.**

2 The purpose of this ordinance is the establishment of building energy performance standards for  
3 municipal, commercial, institutional, and multi-family properties that have a total combined floor  
4 area of 50,000 square feet or above within the City.

**5 SECTION TWO. Definitions.**

6 Unless the context specifically indicates otherwise, the meaning of terms used in this article shall  
7 be as follows:

8 (a) “Commissioner” means the City of St. Louis Building Commissioner, or the  
9 Commissioner’s designee.

10 (b) “Building Division” means the Division of Building and Inspection of the Department of  
11 Public Safety of the City of St. Louis;

12 (c) “Owner” means any of the following:

13 (1) An individual or entity possessing title to a covered property;

14 (2) The net lessee in the case of a property subject to a triple net lease;

15 (3) The board in the case of a condominium;

16 (4) The board in the case of a cooperative apartment corporation; or

17 (5) An agent authorized, in writing on file with the Commissioner, to act on behalf of

18 any of the above.

19 (d) “Person” means any individual, partnership, co-partnership, firm, company,  
20 corporation, association, joint stock company, trust, estate, governmental entity or any other  
21 legal entity, or their legal representatives, agents or assigns. This definition includes all federal,  
22 state or local governmental entities.

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1 (e) “Condominium” means a site that combines separate ownership of individual units with  
2 common ownership of other elements such as common areas.

3 (f) “Covered property” means a building that is greater than or equal to 50,000 gross square  
4 feet in total combined floor area. The term “covered property” shall not include any building  
5 owned by the State of Missouri or the federal government, though they are encouraged to comply  
6 voluntarily.

7 (g) “Energy” means electricity, natural gas, steam, hot water, chilled water, biomass or fuel  
8 oil delivered to the covered property or generated on-site for purposes of providing heating,  
9 cooling, lighting, water heating, or for powering or fueling other end-uses captured by the  
10 ENERGY STAR Portfolio Manager.

11 (h) “Site energy use” means the annual amount of all the energy a property consumes on-site.

12 (i) “Site energy use intensity (EUI)” means the site energy use divided by the gross floor  
13 area of the property.

14 (j) “Weather normalized site energy” means the energy use a property would have consumed  
15 during 30-year average weather conditions as calculated by ENERGY STAR Portfolio Manager  
16 or an alternative system or tool approved by the Building Commissioner.

17 (k) “ENERGY STAR Portfolio Manager” means the web-based tool developed and  
18 maintained by the U.S. Environmental Protection Agency to track and assess the relative energy  
19 performance of buildings nationwide. An alternative system or tool may be approved by the  
20 Commissioner.

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

22 1. had arrears of property taxes or water or refuse charges that resulted in the property’s  
23 inclusion, within the prior two (2) years, on the city’s annual tax lien sale list; or

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- 1 2. has a court appointed receiver in control of the asset due to financial distress; or
- 2 3. is owned by a financial institution through default by the borrower; or
- 3 4. has been acquired by a deed in lieu of foreclosure; or
- 4 5. has a senior mortgage subject to a notice of default.

5 (m) “Communications infrastructure” means facilities used to house equipment to deliver  
6 electronic communications services, including voice, broadband, data and video services.

7 **SECTION THREE Applicability.**

8 This article shall apply to municipal, commercial, institutional, and multi-family  
9 buildings 50,000 square feet or above within the City of St. Louis.

10 (1) “Covered property” means a building that is greater than or equal to 50,000 gross  
11 square feet in total combined floor area including:

- 12 (a) a building that is owned by the City or for which the City regularly pays all or a  
13 majority of the annual energy bills; or
- 14 (b) a building that is held in the condominium form of ownership that is governed by  
15 the same board, and that is greater than or equal to 50,000 gross square feet in total  
16 combined floor area.

17 **SECTION FOUR. Standards and Compliance.**

18 The City shall establish energy performance standards for covered buildings in the City. The  
19 following standards regarding building energy performance shall be for property types outlined  
20 in the Applicability Section:

- 21 (a) Standards for each property type will be set by May 4, 2021 through a stakeholder  
22 engagement process overseen by the Building Energy Improvement Board. Standards will be

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1 revised no later than every four years. Standards will be set no lower than the 65th percentile by  
2 property type. The chief performance metric will be site energy use intensity (EUI).

3 (i) The Building Division shall establish data verification requirements for each four-  
4 year compliance cycle.

5 (ii) The building energy performance standard shall be no lower than the 65th  
6 percentile of site energy use intensity (EUI) for buildings of each property type collected  
7 through benchmarking reporting from ENERGY STAR Portfolio Manager.

8 (iii) To the extent practical, target site EUIs by property type will be based on local  
9 buildings' benchmarking data.

10 (iv) If building owners believe that due to unusual circumstances they will be unable  
11 to meet the building energy performance standards established by the City by the  
12 deadline or exceptionally burdened by doing so, then they may propose and present an  
13 alternative compliance plan for consideration by the Building Energy Improvement  
14 Board for approval.

15 (b) Building owners will comply through the existing benchmarking reporting  
16 process, which uses ENERGY STAR Portfolio Manager as the reporting tool.

17 (c) Compliance Cycles.

18 (i) Performance standards will be set by May 4, 2021 by the Building Energy  
19 Improvement Board and revised every four years thereafter.

20 (ii) First Building Energy Performance Standards shall be approved no later than May  
21 4, 2021. First Building Energy Performance Standard compliance cycle shall begin on the  
22 day the standards are approved and end four years after that day, May 4, 2025.

23 (d) Compliance Pathways.

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- 1 (i) Buildings that meet their respective building energy performance standard within  
2 the four-year compliance cycle are compliant.
- 3 (ii) Buildings performing below the building energy performance standard or whose  
4 owners believe that due to unusual circumstances they will be unable to meet the building  
5 energy performance standards established by the City by the deadline or exceptionally  
6 burdened by doing so, may conduct the following:
- 7 (1) presenting an alternative compliance plan for consideration and approval by the  
8 Building Energy Improvement Board that can begin implementation no later than one  
9 year before the end of the first compliance cycle; or
- 10 (2) make an alternative compliance payment to the Building Division or daily  
11 ordinance violation, as determined by the Building Division.
- 12 (e) The Building Energy Improvement Board will create a pathway for buildings that  
13 benefit from deep energy improvements and achieve energy performance well beyond the  
14 required performance standard to be in compliance for fifteen (15) years.

15 **SECTION FIVE. Building Energy Improvement Board.**

16 **(1) Board.**

17 There is hereby established a Building Energy Improvement Board (hereinafter,  
18 “Building Energy Improvement Board” or “Board”), consisting of nine (9) members  
19 appointed by the Mayor. At least six (6) members of the Board shall be residents of the  
20 City of Saint Louis.

21 **(2) Board Composition and Authority.**

22 Within sixty (60) days of the applicability date of this title, the Building Energy  
23 Improvement Board shall be established, which shall:

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- 1 (a) Establish and approve building energy performance standards by property type for each  
2 compliance cycle, as recommended by the Building Division;
  - 3 (b) Review and, as necessary, recommend amendments to proposed regulations issued by the  
4 Building Division;
  - 5 (c) Recommend complementary programs or policies;
  - 6 (d) Review appeals regarding any action(s) taken due to this ordinance and the Building  
7 Energy Awareness Ordinance (Ordinance No. 70474);
  - 8 (e) Review alternative compliance plans submitted and make recommendations for approval  
9 or denial by the Building Division; and
  - 10 (f) Provide sample alternative compliance plans to meet building energy performance  
11 standards.
- 12 The Building Energy Improvement Board shall be comprised of representatives, or their  
13 designees, from the following possible entities:
- 14 (a) Building Division;
  - 15 (b) local utilities;
  - 16 (c) providers of energy efficiency or renewable energy services;
  - 17 (d) affordable and/or multi-family housing sector;
  - 18 (e) tenant(s) of affordable housing;
  - 19 (f) labor;
  - 20 (g) technical building design professionals;
  - 21 (h) environmental/sustainability-focused non-profits; and
  - 22 (i) owners/operators of commercial buildings.

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1 A technical subcommittee shall also be established by the Building Division and charged with  
2 reviewing and acting on alternative compliance plans and shall consist of at least eighty percent  
3 (80%) technical experts. Members of the technical subcommittee may also be members of the  
4 Building Energy Improvement Board. The decision(s) of the technical subcommittee can be  
5 appealed to the full Building Energy Improvement Board.

6 **(3) Alternates to Board.**

7 The alternates shall have all power, protection, and stipends as the regular board  
8 members in accordance with City of St. Louis Civil Service protection. The alternates  
9 shall be appointed by the Mayor.

10 **(4) Term of Office.**

11 All appointments and subsequent appointments shall be for a term of four (4) years and  
12 shall expire on the anniversary of the date of the original term, except appointments to fill  
13 vacancies which shall be for the unexpired term. Terms for first appointments will be  
14 staggered. Members whose appointed terms have expired shall be permitted to continue  
15 to serve until reappointed or replaced by a new appointee.

16 **(5) Procedures.**

17 The Board shall elect one of its members as chair who shall serve as such during the  
18 remainder of the calendar year or until a successor is elected. The Board shall from time  
19 to time adopt rules and regulations as shall be reasonably necessary to govern its  
20 procedure and to carry into effect the provisions of this article. These rules and  
21 regulations shall be available for review at the office of the Secretary to the Board during  
22 normal working hours. It shall be unlawful for any appellant or appellant's representative

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1 to contact any member of the board on any matter that is pending or scheduled to be  
2 heard by the Board.

3 **(6) Compensation.**

4 The Building Energy Improvement Board members and technical subcommittee  
5 members shall be compensated for services rendered on a per meeting basis as  
6 established by rulemaking and subject to budgeted funds availability. Budgeted funds  
7 will be paid from the Building Division.

8 **(7) Meetings; Witnesses; Minutes.**

9 (a) Meetings of the Board shall be held at the call of the chair and at such other times as the  
10 Board shall permit by its rules. The chair, or in the chair's absence, the acting chair, shall  
11 administer oaths. The Board shall act by a majority vote and a quorum shall consist of at least 5  
12 members.

13 (b) All hearings shall be conducted in accordance with the provisions of the Missouri  
14 Administrative Procedure Act. All testimony shall be given under oath or affirmation. The  
15 Board Chair or Secretary to the Board may issue subpoenas to secure the attendance and  
16 testimony of relevant witnesses and the production of relevant documents.

17 (c) The Board shall keep minutes of its proceedings showing the vote of each member on  
18 each question, or if absent or failing to vote, indicating such fact, and shall keep records of its  
19 examinations of witnesses and other official acts. Transcripts of hearings shall be permitted to  
20 be kept in the custody of the court reporter and need not be transcribed unless requested. The  
21 party requesting the transcripts shall pay all costs of such transcripts required including a file  
22 copy for the Board, one for the Building Division, and one for the Board's legal staff.

23 **(8) Exemptions**

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1 The Board may grant an extension of the performance standard submission date or an  
2 exemption from the building energy performance standard requirement to the owner of a  
3 covered property that submits a request, together with documentation, in a form  
4 prescribed by the Board’s rule, at least ninety (90) days prior to any building energy  
5 performance standard submission deadline, if the appellant meets any of the following  
6 criteria:

7 (a) a demolition permit was issued during the prior calendar year, provided that  
8 demolition work has commenced and energy-related systems have been significantly  
9 compromised;

10 (b) the Building Energy Improvement Board determines that due to special  
11 circumstances unique to the applicant’s facility and not based on a condition caused by  
12 actions of the applicant, strict compliance with provisions of this ordinance would cause  
13 financial hardship or would not be in the public interest;

14 (c) the property is primarily used for manufacturing or other industrial purposes for  
15 which benchmarking results would not meaningfully reflect covered property energy use  
16 characteristics due to the intensive use of process energy;

17 (d) the property is primarily used for communications infrastructure; or

18 (e) the property is owned by the State of Missouri or the United States Federal  
19 Government.

20 **SECTION SIX. Appeals.**

21 **(1) Types of Appeals.**

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1 Appeals of any decision of the Commissioner regarding any person’s failure to meet any  
2 required building energy performance standard can be made to the Building Energy  
3 Improvement Board.

4 **(2) Filing Date of Appeal.**

5 Any allowable appeal pursuant to this article shall be filed within thirty (30) calendar days after  
6 the decision of the Building Division official that is being appealed.

7 **(3) Manner and Fee for Filing Appeals.**

8 Appeals shall be taken by filing with the Secretary to the Board a notice of appeal on such forms  
9 as prescribed by the Board specifying the grounds thereof. The Board Secretary shall  
10 immediately transmit to the Board such notice and all papers constituting the record upon which  
11 the action appealed from is taken. The notice of appeal shall be accompanied by a fee of one  
12 hundred dollars (\$100.00).

13 **(4) Multiple Appeals.**

14 In the event that more than one building, structure, or premises owned by the same person, firm,  
15 or corporation has been cited for exactly the same violation and the owner has filed an appeal  
16 with the board disputing the same citation, the appellant shall be permitted to file one appeal  
17 covering all said buildings, structures, or premises and be charged one appeal fee. The decision  
18 rendered by the Board shall apply to all buildings, structures, or premises involved in the appeal.

19 **(5) Board Hearings; Notifications.**

20 After an appeal has been filed, the Secretary to the Board shall place the appeal on a Board  
21 hearing agenda and the appellant shall be notified in writing by certified mail prescribing the  
22 time, date, and location of the hearing not less than seven (7) days prior to said hearing. Such

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1 hearing shall be held within a reasonable time after the filing of the notice of appeal, depending  
2 on the scheduling of other appeals.

3 **(6) Appeals from Decisions of the Board.**

4 Any person(s) jointly or severally aggrieved by the decision of the Building Energy  
5 Improvement Board shall be entitled to judicial review of the decision rendered by the Board as  
6 provided in the Missouri Administrative Procedure Act, Sections 536.100 to 536.140 of the  
7 Revised Statutes of Missouri.

8 **(7) Hearing Officer.**

9 The Building Energy Improvement Board shall have the right to appoint a hearing officer to hear  
10 and render a decision on any appeal filed with the Board. The hearing officer shall be an  
11 attorney and on an approved list of attorneys who have administrative law experience. The  
12 Director of Public Safety shall compile and maintain said list. The hearing officer shall have  
13 such rights, responsibilities, and duties as the Building Energy Improvement Board and the  
14 appellants shall have the same rights as an appellant appearing before the Building Energy  
15 Improvement Board, including the right to appeal pursuant to the Missouri Administrative  
16 Procedure Act.

17 **SECTION SEVEN. Rules.**

18 The Commissioner may promulgate such rules as are necessary to carry out the  
19 provisions of this article.

20 **SECTION EIGHT. Severability.**

21 If any section, subsection, sentence, clause, phrase or other portion of this article is for any  
22 reason declared unconstitutional or invalid, in whole or in part, by any court of competent  
23 jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity

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1 shall not affect the validity of the remaining portions of this article, which remaining portions  
2 shall continue in full force and effect.

3 **SECTION NINE. Emergency Clause.**

4 This being an Ordinance necessary for the immediate preservation of public peace, health and  
5 safety, it is hereby declared to be an emergency measure within the meaning of Sections 19 and  
6 20 or Article IV of the Charter of the City of St. Louis and therefore this Ordinance shall become  
7 effective immediately upon its passage and approval by the Mayor.

8 **SECTION TEN. Maintenance of Records.**

9 (a) Owners of covered properties shall maintain records that are necessary for demonstrating  
10 compliance with this article, including but not limited to, energy bills and any reports or forms  
11 received from tenants and utilities. All such records shall be preserved for a period of seven (7)  
12 years from the applicable submission date. At the request of the Commissioner, such records  
13 shall be made available for inspection and audit by the Commissioner.

14 (b) When a covered property changes ownership, the previous owner shall provide the new  
15 owner all information for the years complying with the energy performance standard during the  
16 time the previous owner was still in possession of the property.

17 **SECTION ELEVEN. Violations and Enforcement.**

18 (a) Ordinance Violation. Any person who fails to comply with any building energy  
19 performance information submittal requirement mandated by this article or who  
20 misrepresents any material fact in a document or report prepared as required by this  
21 article shall result in the following:

22 (1) A written warning shall be issued by the Commissioner to any owner who fails to  
23 submit any required building energy performance information. Such warning letter shall

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1 be effective on the date of issuance and shall be mailed to the owner's last known address  
2 as determined by county record.

3 (2) In the event required benchmarking and data verification information is not  
4 reported within sixty (60) days of the date the written warning is issued, said failure shall  
5 constitute an offense and shall be punishable, upon conviction, by an alternative  
6 compliance penalty. For any continuing violation of this article, each day of the violation  
7 shall be considered a separate offense.

8 (b) Suit additional to other remedies. If any person violates the provisions of this  
9 article, the City Counselor may commence an action for legal or equitable relief in any  
10 court with appropriate jurisdiction. A petition for legal or equitable relief shall not be a  
11 bar against, or a prerequisite for, taking any other action against any person.

12 (c) Nonexclusivity. The remedies provided for in this article are not exclusive. The  
13 Commissioner may take any, all, or combination of these actions, or any other action  
14 available at law, against any person.