

revised #

SUMMARY

This ordinance amends Chapter 8 of the 2019 Detroit City Code, *Building Construction and Property Maintenance*, Article XV, *Property Maintenance Code*, by amending Division 1, *In General*, Section 8-15-3, *Definitions: A-B*; Section 8-15-4, *Definitions: C*; Section 8-15-5, *Definitions: D-F*; Section 8-15-6, *Definitions G-K*; Section 8-15-9, *Definitions S-Z*, and by adding Division 7, *Energy Benchmarking*, which consists of Section 8-15-581, *Purpose*; Section 8-15-582, *Violations; enforcement*; Section 8-15-583, *Applicability*; Section 8-15-584, *Benchmarking reporting requirements*; Section 8-15-585, *Ensuring benchmarking accuracy*; Section 8-15-586, *Disclosure and publication of benchmarking information*; Section 8-15-587, *Whole-building energy and water consumption data access*; Section 8-15-588, *Providing benchmarking information to the building owner*; Section 8-15-589, *Benchmarking exemptions*; Section 8-15-590, *Reporting of manufacturing or industrial facilities*; Section 8-15-591, *Maintenance of records*; Section 8-15-592, *Promulgation of administrative rules*, to establish an energy and water benchmarking, reporting, and transparency program requirement for certain buildings within the City of Detroit's jurisdiction.

NOV 07 2023

Benson

1 BY COUNCIL MEMBER _____:

2 AN ORDINANCE TO amend Chapter 8 of the 2019 Detroit City Code, *Building*
3 *Construction and Property Maintenance*, Article XV, *Property Maintenance Code*, by amending
4 Division 1, *In General*, Section 8-15-3, *Definitions: A-B*; Section 8-15-4, *Definitions: C*; Section
5 8-15-5, *Definitions: D-F*; Section 8-15-6, *Definitions G-K*; Section 8-15-9, *Definitions S-Z*, and
6 by adding Division 7, *Energy Benchmarking*, which consists of Section 8-15-581, *Purpose*;
7 Section 8-15-582, *Violations; enforcement*; Section 8-15-583, *Applicability*; Section 8-15-584,
8 *Benchmarking reporting requirements*; Section 8-15-585, *Ensuring benchmarking accuracy*;
9 Section 8-15-586, *Disclosure and publication of benchmarking information*; Section 8-15-587,
10 *Whole-building energy and water consumption data access*; Section 8-15-588, *Providing*
11 *benchmarking information to the building owner*; Section 8-15-589, *Benchmarking exemptions*;
12 Section 8-15-590, *Reporting of manufacturing or industrial facilities*; Section 8-15-591,
13 *Maintenance of records*; Section 8-15-592, *Promulgation of administrative rules*, to establish an
14 energy and water benchmarking, reporting, and transparency program requirement for certain
15 buildings within the City of Detroit’s jurisdiction.

16 IT IS HEREBY ORDAINED BY THE PEOPLE OF THE CITY OF DETROIT
17 THAT:

18 Section 1. Chapter 8 of the 2019 Detroit City Code, *Building Construction and Property*
19 *Maintenance*, Article XV, *Property Maintenance Code*, be amended by amending Division 1,
20 Sections 8-15-3 through 8-15-5, and Section 8-15-9, and by adding Division 7, *Energy*
21 *Benchmarking*, which shall consist of Sections 8-15-581 through 8-15-592, to read as follows:

1 **CHAPTER 8. BUILDING CONSTRUCTION AND PROPERTY MAINTENANCE**

2 **ARTICLE XV. PROPERTY MAINTENANCE CODE**

3 **DIVISION 1. IN GENERAL**

4 **Sec. 8-15-3. Definitions A-B.**

5 For purposes of this article, the following words and phrases shall have the meanings
6 respectively ascribed to them by this section:

7 *Abatement or abated* means a measure or set of measures designed to permanently
8 eliminate lead-based paint hazards and includes:

9 (1) The removal of lead-based paint hazards and dust lead hazards, the permanent
10 enclosure or encapsulation of lead-based paint, the replacement of lead-painted
11 surfaces or fixtures, the removal or covering of soil lead hazards, and all
12 preparation, cleanup, disposal, and post-abatement clearance testing activities
13 associated with such measures, which shall be performed by a State-certified lead
14 abatement firm;

15 (2) A project for which there is a written contract or other documentation which
16 provides that a person will be conducting activities in or to a residential dwelling
17 or child-occupied facility that will result in the permanent elimination of lead
18 hazards or that are designed to permanently eliminate lead hazards;

19 (3) A project resulting in the permanent elimination of lead-based paint hazards,
20 conducted by a person certified pursuant to the Michigan Lead Abatement Act,
21 being MCL 333.5451 *et seq.*, except a project that is otherwise exempt under the
22 Act;

1 (4) A project resulting in the permanent elimination of lead hazards, conducted by a
2 person who, through such person's company name or promotional literature,
3 represents, advertises, or holds themselves out to be in the business of performing
4 lead-based paint activities, except a project that is exempt under the Michigan
5 Lead Abatement Act; and

6 (5) A project resulting in the permanent elimination of lead hazards that is conducted
7 in response to a state or City abatement order, but does not include:

8 a. Renovation, remodeling, landscaping, or other activity, where the activity
9 is not designed to permanently eliminate lead hazards, but is instead
10 designed to repair, restore, or remodel a dwelling even though the activity
11 may incidentally result in a reduction or elimination of a lead hazard;

12 b. An interim control, operation, maintenance activity, or other measure or
13 activity designed to temporarily, but not permanently, reduce a lead
14 hazard;

15 c. Any lead-based paint activity performed by the owner of an owner-
16 occupied residential dwelling or an owner-occupied multifamily dwelling
17 containing four or fewer units where the activity is performed only in that
18 owner-occupied unit of the multifamily dwelling; and

19 d. The scraping or removal of paint, painting over paint, or other similar
20 activity that may incidentally result in a reduction or elimination of a lead
21 hazard.

22 *Adult foster care facility* means a governmental or nongovernmental establishment which
23 principally receives adults for foster care, including a foster care family home for adults who:

- 1 (1) Are aged, emotionally disturbed, developmentally disabled or physically
2 handicapped;
- 3 (2) Require supervision on an ongoing basis; and
- 4 (3) Do not require continuous nursing care, but excludes a nursing home, a home for
5 the aged, a hospital, a hospital for the mentally ill, a county infirmary, and a
6 facility operated for the developmentally disabled by the Michigan Department
7 of Health and Human Services.

8 Aggregate usage data means any customer account information from which all identifying
9 information has been removed so that the individual data or information of a customer cannot be
10 associated with that customer without extraordinary effort.

11 *Apartment* means a one-family living space having one or more rooms located within a
12 building, and containing a kitchen equipped with a sink and a bathroom equipped with a bathtub
13 or shower, a lavatory, and a toilet or water closet.

14 *Approved* means approved by the Building Official or the Public Health Director, or a
15 device, material or practice that meets acceptable industry standards or an apparatus or a method
16 which, by demonstration or test, has proven workable for its intended use.

17 *Approved containers* means receptacles designated for use in specific areas, or for
18 specific uses by the Director of the Department of Public Works, which are limited to Courville
19 containers, large movable or stationary containers, and portable containers, as defined in this
20 section.

21 *Authorized local official* means a police officer, or other City employee or agent, who is
22 authorized to issue blight violations in accordance with this article and Section 1-1-10 of the
23 2019 Detroit City Code that are designated as blight violations.

1 *Basement* means that portion of a building or structure which is partly or completely
2 below grade.

3 *Bathroom* means a room containing plumbing fixtures, including a bathtub or shower.

4 *Bedroom* means any room or space used, or intended to be used, for sleeping purposes.

5 *Benchmark* means to input the total energy and water consumed for a building and other
6 descriptive information for such building as required by the benchmarking tool.

7 *Benchmarking information report* means information related to a building's energy and
8 water consumption as generated by the benchmarking tool, and descriptive information about
9 the physical building and its operational characteristics. The information shall include, but not
10 be limited to:

11 (1) Building address;

12 (2) Energy use intensity;

13 (3) Annual greenhouse gas emissions;

14 (4) Water use; and

15 (5) The energy performance score that compares the energy use of the building to
16 that of similar buildings, where available.

17 *Benchmarking tool* means the U.S. Environmental Protection Agency's Energy Star
18 Portfolio Manager tool, or any successor system thereto, developed by the United States
19 Environmental Protection Agency, or an equivalent tool chosen by the Buildings, Safety
20 Engineering, and Environmental Department Director, or designee, used to track and assess the
21 energy and water usage of certain properties in relation to other properties.

1 *Blight violation* means any unlawful act, or any omission or failure to act, which is
2 designated by the 2019 Detroit City Code as a blight violation pursuant to Sections 4l(4) and
3 4q(4) of the Michigan Home Rule City Act, being MCL 117.4l(4) and 117.4q(4).

4 *Blight violation determination* means a determination that:

- 5 (1) An alleged violator is responsible for one or more blight violations as a result of
6 the admission of responsibility for the allegation in a blight violation notice; or
7 (2) After an administrative hearing that a person is or is not responsible for one or
8 more blight violations: or
9 (3) As a result of a decision and order of default for failing to appear as directed by
10 the blight violation notice, or other notice regarding one or more blight violations,
11 at a scheduled appearance at the Blight Administrative Hearings Bureau in
12 accordance with Section 4q(8)(c) of the Michigan Home Rule City Act, being
13 MCL 117.4q(8)(c).

14 *Blight violation notice* means a written violation notice prepared by an authorized local
15 official, which directs an alleged violator:

- 16 (1) To pay the civil fine specified in the notice, including any required fees or costs,
17 for one or more blight violations in accordance with the fines, fees, or costs
18 specified in this article; and
19 (2) To appear at the Blight Administrative Hearings Bureau regarding the occurrence
20 or existence of one or more blight violations pursuant to Section 4q(8) of the
21 Michigan Home Rule City Act, being MCL 117.4q(8).

22 *Blight violation proceeding* means an administrative process that results in a blight
23 violation determination.

1 *Breach* means any opening, breakthrough, structural failure, or complete or partial
2 collapse of a waterbody barrier and prevents the stabilization of the waterbody barrier but does
3 not include a few rocks falling into the water or other de minimis occurrences.

4 *Building* means a permanent structure that is constructed or used for a residential or non-
5 residential purpose, or any permanent accessory structure or facility used in conjunction with
6 such use.

7 *Building Official*. A person who is:

8 (1) Appointed and employed at the Buildings, Safety Engineering, and
9 Environmental Department;

10 (2) Charged, as required in Section 202, *Definitions*, and Chapter 35, *Referenced*
11 *Standards*, MI (Michigan Department of Licensing and Regulatory Affairs), of
12 the 2015 Michigan Building Code, with the administration and enforcement of
13 the Michigan Building Code, the Michigan Electrical Code, the Michigan
14 Mechanical Code, the Michigan Plumbing Code, the Michigan Rehabilitation
15 Code for Existing Buildings, the Michigan Residential Code, and the Michigan
16 Energy Code;

17 (3) Charged with the administration and enforcement of the Detroit Elevator Code,
18 Detroit Manlifts Code, Detroit Material Hoists Code, Detroit Personnel Hoists
19 Code, and Detroit Powered Platforms Code; and

20 (4) Registered in accordance with the Michigan Building Officials and Inspectors
21 Registration Act, being MCL 338.2301 through 338.2313.

1 *Buildings, premises, and structures* means all properties, equipment, and facilities which
2 are part of, or used in conjunction with, any existing residential and nonresidential building,
3 premises, or structure, including any vacant building.

4 *Bulk storage* means properties where operations that involve “tank storage of bulk oil or
5 gasoline” as described in Chapter 50 of this Code, *Zoning*, or “~~build~~ bulk solid material facilities”
6 as defined in the Section 42-1-1 of this Code.

7 **Sec. 8-15-4. Definitions: C.**

8 For purposes of this article, the following words and phrases shall have the meanings
9 respectively ascribed to them by this section:

10 *Certificate of Collection Box Maintenance* means a certificate issued by the Buildings,
11 Safety Engineering, and Environmental Department, which states that a collection box complies
12 with the requirements of this article.

13 *Certificate of Compliance* means a certificate issued by the Buildings, Safety
14 Engineering, and Environmental Department, which states that a building, premises or structure,
15 or a portion thereof, complies with the requirements of this article.

16 *Certificate of Registration of Rental Property* means a certificate issued by the Buildings,
17 Safety Engineering, and Environmental Department, which states that a rental property complies
18 with the requirements of this article.

19 *Certificate of Registration of Vacant Property* means a certificate issued by the
20 Buildings, Safety Engineering, and Environmental Department, which states that a vacant
21 property has been registered.

1 *Certificate of Registration of Waterbody Barrier* means a certificate issued by the
2 Buildings, Safety Engineering, and Environmental Department, which states that the waterbody
3 barrier complies with the requirements of this article.

4 *Certified abatement worker* means an individual who has been trained to perform lead
5 abatement by an accredited training program and who is certified by the Michigan Department
6 of Health and Human Services to perform lead abatement.

7 *Certified clearance technician* means an individual who has completed an approved
8 training course and is certified by the Michigan Department of Health and Human Services to
9 perform lead-clearance testing on interim controls or nonabatement/renovation projects to ensure
10 that lead dust has been removed.

11 *Certified lead inspector* means an individual who has been trained by an accredited
12 training program and certified by the Michigan Department of Health and Human Services to
13 conduct lead-based paint inspections for the purpose of identifying lead-based paint and take
14 samples for the purpose of lead-abatement clearance testing.

15 *Certified Professional* means a professional engineer or a registered architect licensed in
16 the State of Michigan, or another trained individual acceptable to the Buildings, Safety
17 Engineering, and Environmental Department, or designee.

18 *Certified renovator* means an individual who has successfully completed a lead hazard
19 renovator course provided by an accredited training program for which the Michigan Department
20 of Health and Human Services, who has been issued a certificate to perform lead hazard
21 renovations, or who directs or subcontracts to others under their supervision to perform lead
22 hazard renovations.

1 *Certified risk assessor* means an individual who has been trained by an accredited
2 training program and certified by the Michigan Department of Health and Human Services to
3 conduct evaluations, lead-based paint inspections, and risk assessments for lead-based paint
4 hazards, and to take samples for the presence of lead in paint and dust for the purpose of post
5 remedy inspection and certification.

6 *Charitable Organization* means a benevolent, educational, philanthropic, humane,
7 patriotic, or eleemosynary organization of persons that solicits or obtains contributions from the
8 public for charitable purposes and includes a chapter, branch, area office, or similar affiliate or
9 person soliciting contributions within the state for a charitable organization that has its principal
10 place of business outside the state.

11 *Clear vision triangle* means the area formed by extending the two curb lines a distance
12 of 45 feet from their point of intersection, and connecting these points with imaginary line,
13 thereby making a triangle.

14 *Clearance examination* means an activity conducted following lead-based paint hazard
15 reduction activities to determine that the hazard reduction activities are complete and that no
16 lead-based paint hazards, as defined in this section, exist in the dwelling unit or work site.

17 *Co-box controller* means any person who owns or otherwise is in control of a collection
18 box used to solicit collections of salvageable personal property.

19 *Collection box* means any unattended container, receptacle, or similar device that is
20 located outdoors on any parcel or lot or record within the City of Detroit and that is used for
21 soliciting and collecting clothing, household items, or other salvageable personal property, but
22 does not include recycle bins solely used for the collection of recyclable material, garbage

1 receptacles, approved containers, as defined in Section 42-1-1 of this Code, or any collection
2 box enclosed in a building.

3 *Commercial box servicing* means every 21 days the collection box shall be:

4 (1) Power washed, both inside and outside, in a manner that disinfects to prevent
5 infestation;

6 (2) Cleared of all graffiti, tags, and gang markings;

7 (3) Repaired, which includes the removal of any large dents which change the surface
8 structure of the box, fixing any mechanisms that enable the collection box to stay
9 locked and secured, and replacing the collection box when it cannot be repaired
10 on location; and

11 (4) Cleaned such that the surrounding area is free of any solid waste, as defined by
12 Section 8-15-9 of this Code, of clothes and any other donated items.

13 *Commercial establishments* means all businesses, nonprofit organizations, churches,
14 governmental agencies, and other such institutions which cannot be classified as residential
15 structures, as well as residential structures containing five or more household units.

16 *Commercial solid waste* means:

17 (1) The solid waste resulting from the operation of commercial establishments; and

18 (2) Construction solid waste, but does not include domestic solid waste.

19 *Community residential home* means a location which provides shelter to prisoners placed
20 pursuant to Section 65a of the Michigan Department of Corrections Act, being MCL 791.265a.

21 *Condemnation* means to determine a structure unfit for occupancy.

22 *Condominium* means that portion of a condominium conversion or project designed and
23 intended for separate ownership and use, as described in the master deed, regardless of whether

1 it is intended for residential, office, industrial, business or recreational use, or use as a time share
2 unit, or any other type of use.

3 *Construction solid waste* means waste from buildings construction, alteration, demolition
4 or repair, and dirt from excavations.

5 *Containment* means a process to protect workers and the environment by controlling
6 exposure to a dust lead hazard and debris created during lead abatement.

7 *Contaminant* means, but is not limited to, any element, hazardous substance, compound,
8 or mixture, including disease causing agents, which after release into the environment and upon
9 exposure, ingestion, inhalation, or assimilation into any organism, either directly from the
10 environment or indirectly by ingestion through food chains, will or may reasonably be
11 anticipated to cause death, disease, behavior abnormalities, cancer, genetic mutation,
12 physiological malfunctions, including malfunctions in reproduction, or physical deformation, in
13 such organisms or their offspring.

14 *Correction notice* means a written notice of a violation that, if not cured within the time
15 period stated in the notice, will result in the issuance of a blight violation notice.

16 *Courville containers* means receptacles which are 100, 300 or 400 gallons in capacity,
17 are the property of the City, are provided by the Department of Public Works for use at residential
18 structures and commercial establishments, and are mechanically emptied.

19 *Covered building means:*

20 (1) Any building that is 10,000 gross square feet or more that is owned by the City of
21 Detroit or where the City of Detroit regularly pays all or the majority of the annual
22 energy bill or the majority of the water bill;

1 (2) Any building that is 10,000 gross square feet or more where a City of Detroit

2 Department or Agency leases at least 1,000 rentable square feet of space;

3 (3) Any non-City building containing 100,000 or more gross square feet; or

4 (4) Any non-City building containing 25,000 or more gross square feet.

5 The term "covered building" shall not include any building or buildings owned by the State of

6 Michigan or the United States Government.

7 **Sec. 8-15-5. Definitions: D—F.**

8 For purposes of this article, the following words and phrases shall have the meanings
9 respectively ascribed to them by this section:

10 *Debris* means the remains of an item broken down or destroyed.

11 *Designated transitional housing* means housing which is defined by the United States
12 Department of Housing and Urban Development, in 24 CFR 577.5 as "transitional housing" or
13 in 24 CFR 583.5 as "supportive housing."

14 *Deteriorated paint* means paint or other surface coating that is cracking, flaking,
15 chipping, peeling, or otherwise damaged or separating from the substrate of a building
16 component, unless the deteriorated paint surfaces total no more than:

17 (1) 20 square feet on exterior surfaces;

18 (2) Two square feet in any one interior room or space; or

19 (3) Ten percent of the total surface area on an interior or exterior type of component
20 with a small surface area.

21 *Domestic solid waste* means the solid waste resulting from the usual routine of
22 housekeeping, but does not include commercial solid waste.

1 *Dust-lead hazard* means surface dust in a residential dwelling that contains a
2 concentration of lead at or in excess of levels identified by the EPA pursuant to Section 403 of
3 Title IV of the Toxic Substances Control Act, being 15 USC 2683, or as otherwise defined by
4 rule.

5 *Dwelling or dwelling unit* means a single unit providing complete, independent living
6 facilities occupied, or intended to be occupied, in whole or in part, by one or more persons,
7 including permanent space and provisions for living, cooking, eating, sanitation, and sleeping.

8 *Emergency* means any condition in a building, premises, or structure that reasonably
9 constitutes a threat to the public interest, safety, or welfare.

10 *Emergency shelter* means a facility which provides congregate-style temporary lodging
11 either with or without meals and ancillary services on the premises to primarily the homeless for
12 more than four weeks in any calendar year but does not provide such lodging to any individual:

- 13 (1) Who is required because of age, mental disability or other reason to reside either
14 in a public or in a private institution; or
- 15 (2) Who is imprisoned or otherwise detained pursuant to either federal or state law,
16 and excludes an adult foster care facility, designated transitional housing, a
17 nursing home, a temporary emergency shelter, and a warming center.

18 *Encapsulant* means a substance that forms a barrier between lead-based paint and the
19 environment using a liquid-applied coating, with or without reinforcement materials, or an
20 adhesively bonded covering material.

21 *Encapsulation* means the application of an encapsulant.

1 *Enclosure* means the use of rigid, durable construction materials that are mechanically
2 fastened to the substrate in order to act as a barrier between lead-based paint and the
3 environment.

4 *Energy* means electricity, natural gas, thermal, heating oil, or other product sold by a
5 utility for use in a building, or renewable on-site electricity generation, for purposes of providing
6 heating, cooling, lighting, water heating, or for powering or fueling other end uses in the building
7 and related facilities.

8 *Energy use intensity* means the calculation of dividing the total energy consumed by the
9 building in one year by the total gross floor area of the building.

10 *Energy performance score* means the numeric rating generated by the ENERGY STAR
11 Portfolio Manager tool or equivalent tool chosen by the Buildings, Safety Engineering, and
12 Environmental Department Director, or designee, that compares the energy usage of the building
13 to that of similar buildings.

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

17 *Environmental contamination* means the release of a contaminant, or the potential release
18 of a discarded contaminant, in a quantity which is, or may become, injurious to the environment
19 or to the public health, safety, or welfare.

20 *Environmental investigation* means any health, safety or environmental site assessment,
21 investigation study, review, audit, or compliance review conducted at any time concerning any
22 Real Property or the business operations or activities of any Company or Affiliate of any
23 Company, including, without limitation:

- 1 (1) Air, soil, groundwater or surface water sampling and monitoring;
- 2 (2) Repair, cleanup, remediation, or detoxification;
- 3 (3) Preparation and implementation of any closure, remedial, spill, emergency or
- 4 other plans; and
- 5 (4) Any health, safety or environmental compliance audit or review.

6 *EPA RRP Certification* means the Lead Safe Certification for Renovation, Repair, and
7 Painting certification as provided the united States Environmental Protection Agency.

8 *Evaluation* means a risk assessment, a lead-hazard screen, a lead-based paint inspection,
9 paint testing, or a combination of these to determine the presence of lead-based paint hazards or
10 lead-based paint.

11 *Exterior property* means the open space on the premises and on adjoining premises or
12 property under the control of owners or operators of such premises and property.

13 *Extermination* means the control and elimination of insects, rats or other pests by
14 eliminating their harborage places, or by removing or making inaccessible materials that serve
15 as their food, or by fumigating, poisoning, spraying, trapping or any other approved pest
16 elimination method, or by a combination thereof.

17 *Facility* means any area, place, parcel or parcels of property, or portion of a parcel of
18 property where a contaminant in excess of the concentrations that satisfy the cleanup criteria for
19 unrestricted residential use has been released, deposited, stored, disposed of, or otherwise has
20 come to be located.

21 *Final decision and order* means a final decision by an administrative hearings officer that
22 a blight violation does or does not exist and constitutes a judgment for purposes of judicial

1 review which may be enforced in the same manner as a judgment entered by a court of competent
2 jurisdiction.

3 *Friction surface* means an interior or exterior surface that is subject to abrasion or
4 friction, including, but not limited to, certain window, floor, and stair surfaces.

5 **Sec. 8-15-6. Definitions: G—K.**

6 For purposes of this article, the following words and phrases shall have the meanings
7 respectively ascribed to them by this section:

8 *Garbage* means, as defined by Section 11503 of the Michigan Natural Resources and
9 Environmental Act, being MCL 324.11503, rejected food wastes, including waste accumulation
10 of animal, fruit, or vegetable matter used or intended for food or that attends the preparation,
11 use, cooking, dealing in, or storing of meat, fish, fowl, fruit, or vegetable matter.

12 *Geotechnical report* means a report used to define and evaluate the existing geotechnical
13 condition of the property including the stability and suitability for its current or proposed use,
14 conducted by a licensed professional engineer or licensed professional geologist with relevant
15 experience and expertise.

16 *Good repair* means to be properly installed, safe, stable, and maintained sufficiently free
17 of defects or deterioration so as to be functional for current use.

18 *Graffiti* means any drawing, lettering, illustration, inscription, design, or other marking
19 that is etched, painted, sprayed, drawn, or otherwise caused to be displayed on the exterior of
20 any building, premises or structure, but does not mean an art mural or sign as defined in Section
21 4-4-2 of the 2019 Detroit City Code, building identification under Section 8-15-202 of this Code,
22 any sign permitted by the Chapter 50 of the 2019 Detroit City Code, *Zoning* , or any decoration
23 that is part of the architectural design of the building entrance.

1 Gross floor area means the total property area of a covered building measured between
2 the outside surfaces of the exterior walls of the building or buildings. This shall include all areas
3 inside the building or buildings, including, but not limited to, lobbies, tenant areas, common
4 areas, meeting rooms, break rooms, atriums (base level only), restrooms, elevator shafts,
5 stairwells, mechanical equipment areas, basements, and storage rooms.

6 *Guard* means a building component, or a system of building components, located at or
7 near the open sides of elevated walking surfaces that minimize the possibility of a fall from the
8 walking surface to a lower level.

9 *Habitable space* means space in a structure for living, eating, cooking or sleeping, but
10 does not mean bathrooms, closets, halls, storage or utility spaces, toilet rooms, or similar areas.

11 *Hazard reduction* means measures designed to reduce or eliminate human exposure to
12 lead-based paint hazards through methods, including interim controls or abatement or a
13 combination of both.

14 *Hazardous condition* means a condition which may result in the death, injury, or illness
15 of a person or in severe damage to a building, premises, or structure.

16 *Hazardous substance* means one or more of the following:

17 (1) As likewise defined in the Comprehensive Environmental Response,
18 Compensation, and Liability Act (CERCLA), being 42 U.S.C. §9601 *et seq.*; and

19 (2) As likewise defined in Section 2-6-1 of this Code, any chemical or other material
20 defined as a hazardous substance under Part 201 of the Michigan Natural
21 Resources and Environmental Protection Act, being MCL 324.20101 *et seq.*, and
22 any rules promulgated thereunder.

1 *Homeless* means an individual who, or family which, lacks a fixed, regular and adequate
2 nighttime residence, or whose primary nighttime residence is:

3 (1) A supervised publicly or privately operated shelter designed to provide temporary
4 living accommodations; or

5 (2) A public or private place not designed for, or ordinarily used as, a regular sleeping
6 accommodation for human beings.

7 *Hotel* means any building containing guest rooms which are intended or designed to be
8 used, rented, or hired out by transient persons or by a transient family.

9 *Household units* means the individual residences of the residents of the City.

10 *HUD Visual Assessment Certification* means the Lead Based Point Visual Assessment
11 Certification as provided by the United States Department of Housing and Urban Development.

12 *Imminent danger* means a condition which could cause serious or life-threatening injury,
13 or death, to persons at any time due to the maintenance, or lack of maintenance, of a building,
14 premises, or structure.

15 *Impact surface* means an interior or exterior surface that is subject to damage by repeated
16 sudden force, such as certain parts of door frames.

17 *Impacted resident* means any resident in the affected area whose water supply may be
18 compromised.

19 *Infestation* means the presence, within or contiguous to, a building, premises or structure
20 of insects, rats, vermin or other pests.

21 *Interim controls* means a set of measures designed to temporarily reduce human exposure
22 or likely exposure to lead-based paint hazards, including, but not limited to, specialized cleaning,
23 repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint

1 hazards or potential hazards, and the establishment and operation of management and resident
2 education programs.

3 **Sec. 8-15-9. - Definitions: S—Z.**

4 For purposes of this article, the following words and phrases shall have the meanings
5 respectively ascribed to them by this section:

6 *Sanitary condition* means a clean condition which guards against disease, illness or
7 infection, or the growth of harmful bacteria.

8 *Seawall report* means a report prepared by a licensed professional civil engineer with
9 relevant experience and expertise, to provide data on the structural integrity of the seawall above
10 and below the water. The underwater portion of the assessment may be completed by camera,
11 drone, diver, or other methods determined appropriate by a licensed professional civil engineer.

12 *Secured by other than normal means* means a building secured in a manner other than
13 one used in the construction, design, or approved plans for the building, or other than as required
14 by Section 8-15-113 of this Code.

15 *Shelter* means either an emergency shelter or a shelter for victims of domestic violence.

16 *Shelter for victims of domestic violence* means a residential facility which provides
17 temporary accommodation and support to victims of domestic violence either with or without
18 their minor children, and which is operated by a nonprofit, charitable, or a religious agency that
19 meets the precontract standards of the Michigan Domestic Violence Prevention and Treatment
20 Board, but does not include an adult foster care facility, a community residential home, or a
21 substance abuse service facility.

1 *Solid waste* means any material defined as a solid waste within the meaning of Section
2 11506 of the Natural Resources and Environmental Protection Act. being MCL 324.11506, and
3 includes debris, garbage, litter, and rubbish, as defined by this section

4 *Structure* means that which is built or constructed.

5 *Substance abuse service facility* means an establishment which is used on an outpatient
6 basis for the dispensing of compounds or prescription medicines directly to persons that have
7 drug or alcohol abuse problems, but excludes a generally recognized pharmacy or licensed
8 hospital that dispenses prescription medicines.

9 *Substantial number of limited English-speaking persons* means persons who are members
10 of a population that constitutes at least five percent or 10,000 residents who speak a shared
11 language other than English, as those languages are determined based on a variety of relevant
12 sources, including, but not limited to, United States Census data, intake data collected by City
13 departments, and data on telephonic language translation service requests or usage.

14 *Temporary Certificate of Compliance* means a certificate issued by the Buildings, Safety
15 Engineering, and Environmental Department stating that a building, premises, or structure, or a
16 portion thereof, has been found to be safe for its intended purpose and use, is in substantial
17 compliance with this article, and provides for an expiration date of less than six months from the
18 date of issuance that is conditionally extendable in writing by the Building Official.

19 *Temporary emergency shelter* means a building which is opened on an urgent basis to
20 provide shelter for the homeless from the elements for not more than four weeks in any calendar
21 year, including those operated in concert by churches and other religious organizations that
22 permit the homeless to utilize their facilities as a place of lodging on a weekly rotating basis.

1 *Tenant* means a person, corporation, partnership or group, whether or not the legal owner
2 of record, who or which occupies a building or structure.

3 *Threat of release* means any circumstance that may reasonable be anticipated by
4 determination of a City department inspector to cause a release.

5 *Toilet room* means a room containing a water closet or urinal, but not a bathtub or shower.

6 *Townhouse* means a single-family dwelling unit constructed in a group of three or more
7 attached units in which each unit extends from foundation to roof and with no side yards except
8 end units which have one side yard.

9 *Trade secrets* means information, including a formula, pattern, compilation, program,
10 device, method, technique, or process, that is both of the following:

11 (1) Derives independent economic value, actual or potential, from not being generally
12 known to, and not being readily ascertainable by proper means by other persons
13 who can obtain economic value from its disclosure or use; and

14 (2) Is the subject of efforts that are reasonable under the circumstances to maintain
15 its secrecy.

16 *Utility* means an entity that distributes and sells natural gas, electric, thermal energy, or
17 water services for real property.

18 *Vacant building* means a building or structure that is unoccupied for more than 30 days,
19 is unsecured, is secured by other than normal means, as defined in this section, is illegally
20 occupied, or poses an imminent danger to the health and safety of surrounding residents and
21 properties or to the general public by being unsafe as determined by an authorized local official,
22 including, but not limited to, the existence of a fire hazard, a collapsed or dilapidated portion,
23 the loss of a utility, or an unsanitary condition.

1 *Ventilation* means the natural or mechanical process of supplying conditioned or
2 unconditioned air to, or removing such air from. any space.

3 *Vermin* means small animals. such as mice, and insects, such as bedbugs and lice, that
4 tend to occur in great numbers, are difficult to control, and are offensive as well as injurious.

5 *Violation* means any condition that is a violation of this article, or any act that is
6 prohibited or made or declared to be a blight violation by any section of this article, and any
7 omission or failure to act where the act is required by any section of this article.

8 *Violator* means a person who is responsible for a blight violation.

9 *Warming center* means a facility which is not designed for lodging and is operated for
10 the purpose of sheltering the transient homeless from the elements for brief intervals during any
11 24-hour period.

12 *Water* means water used for potable and nonpotable uses sold by a utility to a covered
13 building, as well as non-purchased on-site water use from wells, or any other sources of water
14 that the City may designate.

15 *Waterbody* means any surface water of the state, as likewise defined in the Michigan
16 Administrative Code R 323.1044(u), and includes:

- 17 (1) The Great Lakes and their connecting waters;
- 18 (2) All inland lakes;
- 19 (3) Rivers;
- 20 (4) Streams;
- 21 (5) Impoundments;
- 22 (6) Open drains;
- 23 (7) Wetlands; and

1 (8) Other surface bodies of water within the confines of the state.

2 Drainage ways and ponds used solely for wastewater conveyance, treatment, or control are
3 expressly excluded from this definition.

4 *Waterbody barrier* means human-placed material including but not limited to dikes,
5 seawalls, riprap, and other shoreline embankments used to armor shorelines, streambeds, bridge
6 abutments, pilings, and other shoreline structures against scour, water, and wave or ice erosion.

7 *Waterbody property* means any real property that abuts any portion of a Waterbody, set
8 forth by the State of Michigan or its subsidiaries or agencies.

9 *Workmanlike* means constructed or repaired in a skilled professional manner, for
10 example, work that is generally plumb, level, square, in line, undamaged and without marring
11 adjacent work and generally in compliance with any applicable requirements of the Michigan
12 Construction Codes enacted pursuant to Section 4 of the Stille-DeRossett-Hale Single State
13 Construction Code Act, being MCL 125.1504.

14 *Yard* means an unobstructed open space on the same lot with a building or structure.

15 **CHAPTER 8. BUILDING CONSTRUCTION AND PROPERTY MAINTENANCE**

16 **ARTICLE XV. PROPERTY MAINTENANCE CODE**

17 **DIVISION 7. ENERGY BENCHMARKING**

18 **Sec. 8-15-581. Purpose.**

19 The purpose of this division is to establish an energy and water benchmarking, reporting,
20 and transparency requirement for certain buildings within the City. The energy and water use of a
21 covered building shall be benchmarked in accordance with this division.

1 **Sec. 8-15-582. Violations; enforcement.**

2 (a) It shall be unlawful for any entity or person to fail to comply with the requirements
3 of this division. Any entity or person found to be in violation of this division shall be subject to
4 the enforcement provisions of this division.

5 (b) If the Buildings, Safety Engineering, and Environmental Department Director, or
6 designee, determines that an owner or tenant of a covered building has failed to comply with any
7 provision of this division, such Director shall deem the non-compliance a blight violation and issue
8 a blight violation notice in accordance with this Code.

9 **Sec. 8-15-583. Applicability.**

10 (a) This division is applicable to the owner of each covered building, as well as the
11 tenants thereof, subject to any exceptions set forth in Section 8-15-589 of this Code.

12 (b) This division is applicable to each utility to the extent that each utility is highly
13 encouraged to:

14 (1) Develop and maintain the capability to determine aggregate usage data for each
15 covered building that it serves in an electronic format capable of being uploaded
16 into the benchmarking tool for at minimum the most recent 24 months; and

17 (2) Cooperate with the owners of covered properties in providing such data and
18 information as is possible for purposes of benchmarking under this division.

19 **Sec. 8-15-584. Benchmarking reporting requirements.**

<u>Property</u>	<u>Initial Reporting Date</u>	<u>Initial Transparency Year*</u>
<u>Any covered building that is 10,000 gross square feet or more that is owned by the City of Detroit or where the City of Detroit regularly pays all or the majority of the annual energy bill or the majority of the water bill.</u>	<u>October 1, 2024 (Data = Jan-Dec 2023)</u>	<u>October 1, 2025</u>

<u>Any covered building that is 10,000 gross square feet or more where a City of Detroit Department or Agency leases at least 1,000 rentable square feet of space.</u>	<u>October 1, 2024</u> <u>(Data = Jan-Dec 2023)</u>	<u>October 1, 2025</u>
<u>Any covered non-City building containing 100,000 or more gross square feet.</u>	<u>October 1, 2024</u> <u>(Data = Jan-Dec 2023)</u>	<u>October 1, 2025</u>
<u>Any covered non-City building that is 25,000 or more gross square feet.</u>	<u>June 1, 2025</u> <u>(Data = Jan-Dec 2024)</u>	<u>October 1, 2026</u>

1 **Sec. 8-15-585. Disclosure and publication of benchmarking information.**

2 (a) The owner of a covered building shall annually submit a benchmarking information
3 report to the Buildings, Safety Engineering, and Environmental Department, or designee, in such
4 form as is established by the Buildings, Safety Engineering, and Environmental Department.

5 (b) The Buildings, Safety Engineering, and Environmental Department, or designee,
6 shall make available to the public on the City's website all benchmarking information reports for
7 the previous calendar year for any covered building owned or leased by the City, or where the City
8 regularly pays all or the majority of the annual energy bill or the majority of the water bill,
9 beginning no later than October 1, 2025, and for all other covered buildings for the previous
10 calendar year no later than October 1, 2026, provided that no benchmarking information is required
11 to be benchmarked for the first year following the effective date of this ordinance.

12 (c) In addition to the requirements of Subsections (a) and (b) of this section, the
13 Buildings, Safety Engineering, and Environmental Department, or designee, shall make available
14 to the public on the City's website, and update annually, the following information:

- 15 (1) Summary statistics on energy and water consumption in covered buildings derived
16 from the aggregation of benchmarking information for those buildings;
17 (2) Summary statistics on overall compliance with this division; and

1 (3) For each covered building:

2 a. The status of compliance with the requirements of this division;

3 b. Annual summary statistics for the building, including but not limited to
4 energy use intensity, annual greenhouse gas emissions, water use per gross
5 square foot, and an energy performance score where available; and

6 c. A comparison of benchmarking information across calendar years for any
7 years such building was benchmarked.

8 **Sec. 8-15-586. Ensuring benchmarking accuracy.**

9 (a) Before submitting a benchmarking information report to the Buildings Safety,
10 Engineering, and Environmental Department, or designee, the owner of a covered building shall
11 run all data quality checker functions available within the benchmarking tool and shall verify that
12 all data has been accurately entered therein, provided that, any missing or incorrect information as
13 identified by the data quality checker shall be corrected prior to submission of the benchmarking
14 information report.

15 (b) Prior to the first benchmarking deadline as provided in Section 8-15-584 of this
16 Code, and every third benchmarking deadline thereafter, the owner of a covered building must
17 ensure that reported benchmarking information for the prior calendar year is verified by a certified
18 professional. Such verification must be in the form of a signed statement by a certified professional
19 attesting to the accuracy of the information. Upon a written request by the Buildings Safety,
20 Engineering, and Environmental Department, or designee, the owner of a covered building must
21 produce such statement for the most recent year in which verification of reported benchmarking
22 information is required, provided that the Buildings Safety, Engineering, and Environmental
23 Department Director, or designee, may exempt from the verification requirement the owner of a

1 covered building who submits documentation establishing that compliance with this Section will
2 cause undue financial hardship.

3 (c) Where the current owner of a covered building becomes aware that any information
4 reported on the provided withing the current year benchmarking information report is inaccurate
5 or incomplete, the owner of a covered building shall amend the information reported within the
6 benchmarking tool and provide an updated benchmarking information report to the Buildings,
7 Safety Engineering, and Environmental Department, or designee, within 30 days of learning of the
8 inaccuracy.

9 **Sec. 8-15-587. Whole-building energy and water consumption data access.**

10 (a) If the owner of a covered building does not have immediate access to both
11 aggregated energy and water usage data for the entire building, except in cases where a building
12 is exempt under Section 8-15-589 of this Code, the owner of the covered building shall request the
13 aggregate usage data from the utility company that provides energy and water to the covered
14 building. If the utility company is unable to provide such data, the owner of a covered building
15 shall request the aggregate usage data from the tenant(s), except in cases where a building is
16 exempt under Section 8-15-589 of this Code. The owner of a covered building may also request
17 authorization from a tenant to allow the utility to share the tenant's data with the owner. Any
18 information which may reveal the identity of the tenant shall be first shared by the utility and
19 approved by the tenant before it is given to the owner of a covered building. The utility shall
20 provide the data in the following manner, as long as it does not conflict with any state or federal
21 law:

22 (1) Within 14 days of a request by the building owner of a covered building; and

1 (2) In an electronic format capable of being uploaded to the benchmarking tool, or
2 through the direct, secure upload to the benchmarking tool account specified by the
3 building owner.

4 (b) Utilities may provide requested data in a form that aggregates energy consumption
5 and water consumption data from tenant meters. Aggregate usage data shall be provided to the
6 owner of a covered building without prior consent from a tenant.

7 (c) Nothing in this division shall be construed to permit an owner of a covered building
8 to use tenant energy or water usage data for purposes other than compliance with benchmarking
9 reporting requirements, nor shall the reporting requirements of this division be construed to excuse
10 an owner of a covered building from complying with federal or state laws governing access to a
11 tenant's utility data which is provided through the utility.

12 **Sec. 8-15-588. Providing benchmarking information to the building owner.**

13 (a) Each tenant located in a covered building subject to this division shall provide all
14 information that cannot otherwise be acquired by the owner of a covered building within 30 days
15 of a request by the building owner. Failure to provide information to the owner of a covered
16 building may result in penalties as provided under Section 8-15-582 of this Code.

17 (b) Where the owner of a covered building is unable to benchmark due to the failure of
18 any or all tenants to report the information required under Subsection 8-15-582 of this Code, the
19 owner of a covered building shall benchmark the covered building using such alternate values as
20 established by the Buildings, Safety Engineering, and Environmental Department Director, or
21 designee. Such Director, or designee, shall evaluate the quality of any alternate values established
22 pursuant to this subsection and propose revisions that increase the quality of such values prior to
23 December 31, 2024 and not less than once every three years thereafter.

1 (c) When an owner receives notice that a nonresidential tenant intends to vacate a space
2 within a covered property, the owner shall request data relating to such tenant's energy and water
3 use for any period of occupancy relevant to the owner's obligation to benchmark pursuant to this
4 division. Such tenant shall report such information to the owner within 30 days of a request by
5 the owner.

6 (d) If a tenant of a unit in a covered building fails to provide energy or water usage data
7 to the owner of the building as provided in this section, the owner shall be considered in
8 compliance with respect to the building if:

9 (1) The owner provides evidence that such owner has requested the tenant's
10 information as specified in this section; and

11 (2) The owner has benchmarked the building using all information otherwise available
12 to the owner;

13 (e) When a covered building changes ownership, the previous owner shall provide the
14 new owner with all energy and water usage data as well as the covered building's descriptive
15 information for the period during which the previous owner was in possession of the building
16 needed to be in compliance with this division.

17 **Sec. 8-15-589. Benchmarking exemptions.**

18 (a) The Buildings, Safety engineering, and Environmental Department, or designee,
19 may exempt from the benchmarking requirements of this division the owner of a covered building
20 that submits a request, together with documentation which demonstrates to the satisfaction of the
21 Buildings, Safety Engineering, and Environmental Department, or designee, any of the following
22 criteria, at least sixty days prior to any benchmarking submission deadline:

- 1 (1) The covered building has not been issued a certificate of use and occupancy or
2 temporary certificate of use and occupancy for the prior calendar year, pursuant to
3 Sections 50-4-62 or 50-4-64 of this Code, respectively; or
- 4 (2) The covered building was issued a demolition permit during the prior calendar year,
5 pursuant to Section 8-2-20 of this Code; or
- 6 (3) The covered building had an average physical occupancy rate of less than 50
7 percent during the prior calendar year; or
- 8 (4) Benchmarking or data transparency would disclose trade secrets that would cause
9 any secret manufacturing procedure, compound or product to become public
10 knowledge and available to competitors; or
- 11 (5) The owner of the covered building is unable to obtain a substantial amount of data
12 as required by this division.

13 (b) Any owner requesting such an exemption shall provide the Buildings, Safety
14 Engineering, and Environmental Department, or designee, with any and all documentation
15 requested to substantiate the request or otherwise assist in the exemption determination. Any
16 exemption granted shall be limited exclusively to the benchmarking submission for which the
17 request was made and shall not extend to past or future submissions.

18 (c) An owner may make a written request to the Director of the Buildings, Safety
19 Engineering, and Environmental Department, or designee, in such form and with such supporting
20 documentation as may be requested, at least 30 days prior to the date on which a benchmarking
21 submission is due for an extension of time to make a benchmarking submission if, despite good
22 faith-efforts, the owner is unable to complete the submission on time due to the failure of either a
23 utility provider, a tenant, or both, to provide the owner with information needed to complete the

1 submission. The Buildings, Safety Engineering, and Environmental Department Director, or
2 designee, may grant no more than two extensions of no more than 30 days each to the owner of a
3 covered property in a calendar year.

4 **Sec. 8-15-590. Reporting of Manufacturing or Industrial Facilities.**

5 Subject to state law, all covered buildings used for manufacturing or other industrial
6 purposes shall not have their benchmarking information released to the public unless the owner of
7 such covered building so authorizes.

8 **Sec. 8-15-591. Maintenance of records.**

9 (a) Each owner of a covered building shall retain the information submitted to the
10 benchmarking tool and supporting data, including, but not limited to, the utility bills and report
11 forms received from tenants or the utility pursuant to this division. Such records shall be preserved
12 for a period of three years and shall be made available for review at the request of the Buildings,
13 Safety Engineering, and Environmental Department Director, or designee.

14 (b) Subject to state law, any records collected in accordance with this division shall not
15 be sold or given to a third party, unless express written authorization has been given by the person
16 whose name or address is associated with such records.

17 **Sec. 8-15-592. Promulgation of administrative rules.**

18 In accordance with Section 2-111 of the Charter, the Director of the Buildings, Safety
19 Engineering, and Environmental Department, or designee, shall adopt rules and procedures to
20 implement the provisions of this division.

21 **Secs. 8-15-593 – 8-15-600. Reserved.**

22 **Section 2.** This ordinance is declared necessary for the preservation of the public peace,
23 health, safety and welfare of the People of the City of Detroit.

1 **Section 3.** All ordinances, or parts of ordinances, that conflict with this ordinance are
2 repealed.

3 **Section 4.** Where this ordinance is passed by a two-thirds (2/3) majority of City Council
4 Members serving, it shall be given immediate effect and shall become effective upon publication
5 in accordance with Section 4-118(1) of the 2012 Detroit City Charter. Where this ordinance is
6 passed by less than two-thirds (2/3) majority of City Council Members serving, it shall become
7 effective thirty (30) days after publication in accordance with Section 4-118(2) of the 2012 Detroit
8 City Charter.

Approved as to form:


Conrad L. Mallett
Corporation Counsel

**READ TWICE BY TITLE,
ORDERED, PRINTED
AND LAID ON TABLE**