

ORDINANCE NO. 15,983

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Sections 26-904 and 26-905, relating to revised deadlines for submittal of energy and water use benchmarking reports and exemptions.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, is hereby amended, by amending Sections 26-904 and 26-905, relating to revised deadlines for submittal of energy and water use benchmarking reports and exemptions.

Sec. 26-904. Benchmarking Reporting Schedule.

- (a) The owner of a covered property shall ensure that a benchmarking report of the covered property for the prior calendar year is generated, completed and submitted to the city annually.
- (b) The initial benchmarking report for each covered property shall be submitted in accordance with the schedule set out in the following table. Subsequent benchmarking reports for each covered property shall be due by July 1 of each year thereafter.

Property	Initial Reporting Due Date
City covered properties	June 1, 2019 (for 2018)
Covered properties other than city covered properties	May 1, 2020 (for 2019)

- (c) The city shall make available on the city’s internet website the shared benchmarking information for the prior calendar year for each covered property, listed by address.
- (d) The shared benchmarking information for each city covered property shall first be made available on the city’s internet website commencing on July 1, 2020 and the shared benchmarking information for each covered property other than a city covered property shall first be made available on the city’s internet website commencing on December 31, 2022.

Sec. 26-905. Benchmarking Exemptions.

- (a) Benchmarking is not required for a city covered property for any calendar year if the covered property is subject to any of the following circumstances:
 - (1) The covered property did not have a certificate of occupancy for the entire calendar year;

- (2) A demolition permit was issued for the covered property and occupancy of the covered property was vacated during the calendar year;
 - (3) The covered property did not receive energy or water utility services for a cumulative 30 days or more during the calendar year; or
 - (4) The covered property had average daily occupancy of no more than one person during the calendar year.
- (b) Benchmarking is not required for a covered property other than a city covered property for any calendar year if the owner, prior to May 1 succeeding the calendar year, submits to the director an exemption request and supporting documentation in such form and with such certifications as required by the director to establish to the reasonable satisfaction of the director that the covered property is subject to any of the following circumstances:
- (1) The covered property is subject to any of the circumstances set out in subsections (a) (1)-(4) of this section;
 - (2) The covered property is subject to financial stress during the calendar year as may be demonstrated by calendar year covered property expenses significantly exceeding calendar year covered property revenues, the covered property is sold at tax sale under Iowa Code Chapter 446, the covered property is subject to foreclosure or forfeiture proceedings initiated under Iowa Code Chapters 654 or 656, or the covered property is otherwise under court appointed receivership;
 - (3) Due to unique features, functions or uses of the covered property, compliance with the benchmarking requirements will cause undue hardship to the owner, will reveal owner proprietary information or trade secrets recognized and protected as such by law, or will not further the underlying public purposes of this article, as determined by the director;
 - (4) The covered property is classified for assessment purposes as multi-residential real estate, more than four energy utility meters are associated with the covered property, the electric utility does not provide access to aggregated whole-building data for the covered property and the owner does not have access to other reasonable means to obtain such aggregated whole-building data.
 - (5) The covered property has obtained Leadership in Energy and Environmental Design (LEED) certification from the U.S. Green Building council (USGBC).
 - (6) The covered property is classified for assessment purposes as multi-residential real estate and constructed within five years prior to the calendar year as evidenced by a certificate of occupancy for the completed construction.
- (c) The decisions of the director on whether a covered property qualifies for exemption to benchmarking pursuant to this section may be appealed by any person affected by the decisions pursuant to the administrative appeal process set forth in Chapter 3 of this Code.

Section 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Lawrence R. McDowell
Deputy City Attorney

T. M. Franklin Cownie, Mayor

Attest: I, P. Kay Cmelik, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 21-0404), passed by the City Council of said City at a meeting held on March 8, 2021 and signed by the Mayor on March 8, 2021 and published and provided by law in the Business Record on March 26, 2021. Authorized by Publication Order No. 11401.

P. Kay Cmelik, City Clerk