

# CITY OF ORLANDO COUNCIL AGENDA ITEM

12-01

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**Items Types:**

Hearings/Ordinances/2nd Read

**District:** ALL

**Contract ID:**

**Exhibits:** Yes

**Grant Received by City?:** No

**For Meeting of:**

February 5, 2024

**From:**

**Document Number:**

**On File (City Clerk) :** Yes

**Draft Only:** No

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**Subject:**

Ordinance No. 2024-4 Amending Part I, Chapter 15, Orlando City Code, to Modify Section 15.03 Relating to Sustainability Building Benchmarking Requirements (Sustainability) Code, to Modify Section 15.03 Relating to Sustainability Building Benchmarking Requirements (Sustainability)

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**Summary:**

The Building Energy and Water Efficiency Strategy (BEWES) ordinance was originally passed in 2016, requiring the City and private/commercial buildings of a certain size to submit their energy consumption data to the City of Orlando annually, starting in 2017 and 2018, respectively. Within the BEWES ordinance, a few exemptions were outlined.

Most exemption requests are for the Industrial, Manufacturing, or Theme Park category, mostly manufacturing/industrial (80% in 2023, or 16/20 requests). Reviewing requests and documentation often entails back-and-forth communication to get documentation that clearly denotes the property use; the vagueness of language leaves it open for buildings that should benchmark to claim an exemption. Zoning for industrial and manufacturing is broad; the definition includes light manufacturing/assembly, storage, and distribution warehouses, though these were not initially intended to be exempt. This change will make it easier for building owners or their designated reporting party to understand their eligibility for the exemption.

The proposed ordinance is to amend the ordinance to add clarifying language to specifically state that "intensive" manufacturing is what constitutes an exemption and that facilities that conduct light manufacturing or warehouses used for storage or distribution are not exempt. The language utilized to distinguish "manufacturing-intensive" is consistent with the principle use type designations utilized by Permitting on Certificate of Use documentation.

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**Fiscal & Efficiency Data:**

Business impact estimate is attached.

City Council Meeting: 2-5-2024

Item: 1201 Documentary: 2403051201

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**Recommended Action:**

Adopting Ordinance No. 2024-4 and authorizing the Mayor and City Clerk to execute the same, after review and approval by the City Attorney's Office.

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Agenda Item attachment(s) on file in the City Clerks Office.

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**Note: All agenda items must be in the City Clerk's office by Noon Friday, six(6) business days prior to the regular Monday City Council meeting.**

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**Contact:** Michael Hess, michael.hess@orlando.gov, 407-246-3877

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**Approved By:****Department**

Budget Outside Routing Approval  
City Clerk

**Date and Time**

1/25/2024 2:37 PM  
1/26/2024 8:52 AM

**ATTACHMENTS:**

Name:	Description:	Type:
 <a href="#">Ord. 2024-4 Ch 15 Benchmarking Requirements (FINAL).docx</a>	Ordinance No. 2024-4	Backup Material
 <a href="#">BIS BEWES Update 2024 (Final).docx</a>	Business Impact Estimate - Ordinance 2024-4	Backup Material

***"Enhance the quality of life in the City by delivering public services in a knowledgeable, responsive and financially responsible manner."***



**AN ORDINANCE OF THE CITY OF ORLANDO, FLORIDA,  
AMENDING PART I, CHAPTER 15, ORLANDO CITY  
CODE, TO MODIFY SECTION 15.03 RELATING TO  
SUSTAINABILITY BUILDING BENCHMARKING  
REQUIREMENTS, PROVIDING FOR SEVERABILITY,  
CODIFICATION, CORRECTION OF SCRIVENER'S  
ERRORS, AND AN EFFECTIVE DATE.**

**WHEREAS**, the City has an established Sustainability Building Energy Benchmarking Requirements set forth in Chapter 15 of the Orlando City Code; and

**WHEREAS**, the City wishes to amend Section 15.03, Chapter 15, City Code to provide clarification on benchmarking requirements for certain industrial properties classified in manufacturing intensive-services use.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF ORLANDO, FLORIDA:**

**SECTION 1. PART I, CHAPTER 15, AMENDED.** Part I, Chapter 15, Section 15.03(2), Code of the City of Orlando, Florida, is hereby amended as follows:

**PART I. - BUILDING ENERGY BENCHMARKING**

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**Sec. 15.03. - Benchmarking requirements.**

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(2) No later than May 1, 2018, and no later than every May 1 each year thereafter, the owner of a covered non-city property shall benchmark energy use of such property for the previous calendar year. However, benchmarking is not required for a covered non-city property, if:

- (a) it meets any of the exemptions defined for a covered city property; or
- (b) the director determines that, due to special circumstances unique to the applicant's facility and not based on a condition caused by actions of the applicant, strict compliance with provisions of this ordinance would cause undue hardship or would not be in the public interest; or
- (c) the property qualifies as having a financial hardship; or
- (d) the property is considered "industry," "manufacturing-intensive services," or is part of a theme park (warehouses used for light manufacturing, storage, and/or distribution of goods are not exempt); or
- (e) substantially all of such non-city property is used for telecommunications infrastructure; or
- (e) more than 3 meters are associated with the covered non-city property, and,

- (i) the electric utility does not provide whole-building data aggregation services, and,
- (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 office, 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 part.

Any entity or owner requesting an exemption from benchmarking shall provide the director, by February 1 in the year for which the exemption is requested, any documentation reasonably necessary to substantiate the request or otherwise assist the director in the exemption determination. Any exemption granted shall be limited to the benchmarking submission date for which the request was made and does not extend to past or future submittals.

- (3) The owner shall annually provide a benchmarking submission for each covered property to the director, in an electronic format through U.S. EPA ENERGY STAR Portfolio Manager, or as established by the director, by the date specified in this Part.
- (4) Benchmarking must be performed by a "Qualified Benchmarker", who shall enter such information into the benchmarking tool as a "Unique Identifier" for such property in order to verify that they possess the required qualifications.
- (5) Before making a benchmarking submission, the Qualified Benchmarker shall run all automated data quality-checker functions available within the benchmarking tool, and shall correct all missing or incorrect information identified.
- (6) Where the current owner learns that any information reported as part of the benchmarking submission is inaccurate or incomplete, the information so reported must be amended in the benchmarking tool by Qualified Benchmarker, and the owner shall provide the director with an updated benchmarking submission performed by a Qualified Benchmarker within 30 days of learning of the inaccuracy.

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**SECTION 2. SEVERABILITY.** If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

**SECTION 3. CODIFICATION.** The City Clerk and the City Attorney shall cause the Code of the City of Orlando, Florida, to be amended as provided by Section 1 of this ordinance and may renumber, re-letter, and rearrange the codified parts of this ordinance if necessary to facilitate the finding of the law.

**SECTION 4. SCRIVENER'S ERROR.** The City Attorney may correct scrivener's errors found in this ordinance by filing a corrected copy of this ordinance with the City Clerk.



**SECTION 5. EFFECTIVE DATE.** This ordinance takes effect immediately upon final passage.

**DONE, THE FIRST READING**, by the City Council of the City of Orlando, Florida, at a regular meeting, the 22 day of January, 2024.

**DONE, THE PUBLIC NOTICE**, in a newspaper of general circulation in the City of Orlando, Florida, by the city clerk of the City of Orlando, Florida, the 23 day of January, 2024.

**DONE, THE SECOND READING AND PUBLIC HEARING, AND ENACTED ON FINAL PASSAGE**, by an affirmative vote of a majority of a quorum present of the City Council of the City of Orlando, Florida, at a regular meeting, the 5 day of February, 2024.

BY THE MAYOR OF THE CITY OF ORLANDO,  
FLORIDA:

Mayor

ATTEST, BY THE CLERK OF THE  
CITY COUNCIL OF THE CITY OF  
ORLANDO, FLORIDA:

City Clerk

Print Name

THIS ORDINANCE DRAFTED BY AND  
APPROVED AS TO FORM AND LEGALITY  
FOR THE USE AND RELIANCE OF THE  
CITY OF ORLANDO, FLORIDA:

Assistant City Attorney

Print Name

City Council Meeting: 2-5-2024  
Item: 1201 Documentary: 2402051201



## **Business Impact Estimate**

*This form should be included in the agenda packet for the item under which the proposed ordinance is to be considered and must be posted on the City's website by the time notice of the proposed ordinance is published.*

Proposed ordinance's title/reference:

AN ORDINANCE OF THE CITY OF ORLANDO, FLORIDA, AMENDING PART I, CHAPTER 15, ORLANDO CITY CODE, TO MODIFY SECTION 15.03 RELATING TO SUSTAINABILITY BUILDING BENCHMARKING REQUIREMENTS, PROVIDING FOR SEVERABILITY, CODIFICATION, CORRECTION OF SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

Ordinance No. 2024-4

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, a business impact estimate is not required by state law<sup>1</sup> for the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☐ The proposed ordinance is enacted to implement the following:
  - a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
  - b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
  - c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
  - d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

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<sup>1</sup> See Section 166.041(4)(c), Florida Statutes.





In accordance with the provisions of controlling law, the City of Orlando hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

**The Building Energy and Water Efficiency Strategy (BEWES) ordinance was originally passed in 2016, requiring city and private/commercial buildings of a certain size to submit their energy consumption data to the City of Orlando annually, starting in 2017 and 2018 respectively. Within the BEWES ordinance, a few exemptions were outlined.**

**Most exemption requests are for the Industrial, Manufacturing or Theme Park category – mostly manufacturing/industrial (80% in 2023, or 16/20 requests). Reviewing requests and documentation often entails back and forth communication to get documentation that clearly denotes the property use; vagueness of language leaves it open for buildings that should benchmark, to claim an exemption. Zoning for industrial and manufacturing is broad; the definition includes light manufacturing/assembly; storage; distribution warehouses, though these were not initially intended to be exempt. Primarily heavy/intensive manufacturing. This change will make it easier for building owners or their designated reporting party to understand their eligibility for the exemption.**

**Proposed ordinance is to amend the ordinance to add clarifying language to specifically state “intensive” manufacturing is what constitutes an exemption, and that facilities that conduct light manufacturing or warehouses used for storage/distribution are not exempt. The language utilized to distinguish “manufacturing – intensive” is consistent with principle use type designations utilized by Permitting on Certificate of Use documentation.**

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the City of Orlando, if any:

- (a) An estimate of direct compliance costs that businesses may reasonably incur;
- (b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
- (c) An estimate of the City of Orlando’s regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

**There will be no direct economic impact. These buildings already had to report, but previously had to ask City staff for clarification on the exemption.**



**Compliance is achieved through energy data reporting using the Environmental Protection Agency's free Energy Star Portfolio Manager (ESPM) tool.**

**There will be no new charge or fee. This change adds clarifying language only.**

**To that end, we anticipate that staff time will be saved in reviewing exemption requests and communicating exemption status through added specificity on the scope of the exemption eligibility. This should also ease reporting for building owners.**

**3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:**

**10 – Roughly the number of buildings that apply annually for exemption for industry and manufacturing, that the language change will make clear do not qualify for said exemption.**

**4. Additional information the governing body deems useful (if any):**

*[You may wish to include in this section the methodology or data used to prepare the Business Impact Estimate. For example: City of Orlando staff solicited comments from businesses in the city as to the potential impact of the proposed ordinance by contacting the chamber of commerce, social media posting, direct mail or direct email, posting on city website, public workshop, etc. You may also wish to include efforts made to reduce the potential fiscal impact on businesses. You may also wish to state here that the proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not affect only businesses].*

**A comprehensive update on the BEWES ordinance will be provided to Mayor and Council in 2024.**



# Orlando Sentinel

MEDIA GROUP

Published Daily  
ORANGE County, Florida

**Sold To:**

City of Orlando - CU00118969  
400 S Orange Ave, Fl 2  
Orlando, FL 32801-3360

**Bill To:**

City of Orlando - CU00118969  
400 S Orange Ave, Fl 2  
Orlando, FL 32801-3360

**State Of Florida  
County Of Orange**

Before the undersigned authority personally appeared  
Rose Williams, who on oath says that he or she is a duly authorized  
representative of the ORLANDO SENTINEL, a DAILY newspaper  
published in ORANGE County, Florida; that the attached copy of  
advertisement, being a Legal Notice in:

The matter of 11150-Public Hearing Notice  
Was published in said newspaper by print in the issues of, or by publication  
on the newspaper's website, if authorized on Jan 23, 2024.

Affiant further says that the newspaper complies with all legal requirements  
for publication in Chapter 50, Florida Statutes.



Signature of Affiant

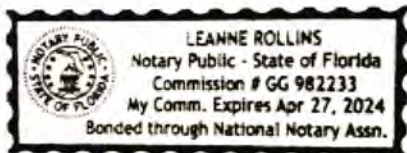
Rose Williams

Name of Affiant

Sworn to and subscribed before me on this 24 day of January, 2024,  
by above Affiant, who is personally known to me (X) or who has produced identification ( ).



Signature of Notary Public



Name of Notary, Typed, Printed, or Stamped

7571124

## NOTICE OF PROPOSED ENACTMENT

On Monday February 5, 2024, the Orlando City Council will consider proposed ordinance #2024-4, entitled: AN ORDINANCE OF THE CITY OF ORLANDO, FLORIDA, AMENDING PART I, CHAPTER 15, ORLANDO CITY CODE, TO MODIFY SECTION 15.03 RELATING TO SUSTAINABILITY BUILDING BENCHMARKING REQUIREMENTS, PROVIDING FOR SEVERABILITY, CODIFICATION, CORRECTION OF SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE. A public hearing on this ordinance will be held during Council's regular meeting beginning at 2:00 p.m., in Council Chamber, 2nd floor, Orlando City Hall, 400 S. Orange Ave., Orlando, Florida. Interested parties may appear at the meeting and be heard with respect to the proposed ordinance. All pertinent information about meeting access and participation instructions will be available on [orlando.gov/councilmeeting](http://orlando.gov/councilmeeting) at least 3 days prior to the meeting. Additionally, interested parties are invited to watch the meeting live and may participate by providing public comment during the meeting or submitting written public comment in advance regarding the proposed ordinance. The opportunity to provide public comment is available until the designated public comment portion of the item is closed. All items received are public record. The proposed ordinance may be inspected at the Office of the City Clerk located on the 2nd floor, Orlando City Hall, 400 S. Orange Ave., Orlando, Florida or online at [orlando.gov](http://orlando.gov). Anyone who desires to appeal an official decision made at this meeting, if an appeal is permitted by law, may need to obtain a verbatim record of the proceedings that includes the testimony and evidence upon which the appeal is based. The City of Orlando is committed to reasonably accommodating the communication needs of persons with disabilities. Persons with disabilities who need reasonable accommodations to participate in this meeting, contact no later than 24 hours in advance of the meeting, the Office of the City Clerk at 407.246.2251 or [cityclerk@orlando.gov](mailto:cityclerk@orlando.gov).  
1/23/24 7571124

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