



## **Owners and Tenants of Privately-Owned, Existing Commercial Buildings Subject to New Atlanta Sustainability Requirements; First Deadline June 2015**

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On March 24, 2015, the Atlanta City Council passed an ordinance “for the purpose of increasing the efficient use of energy within the commercial sector through the requirement of energy benchmarking, benchmarking disclosure, facility retro-commissioning, and facility energy audits of buildings in the City of Atlanta,” which applies to the public and private sectors. The sustainability law requiring tracking and disclosure of energy and water information is the latest effort towards reducing energy consumption citywide by increasing the energy efficiency of existing buildings. Atlanta already has in place green building requirements for public buildings but failed in 2009<sup>1</sup> to extend those requirements to privately owned and occupied buildings. Although the City’s latest legal move, effective immediately, is not as aggressive as its first effort, it nonetheless is a substantive step toward environmental regulation of existing buildings.

The 2015 law applies to most city owned property exceeding 10,000 gross square feet in total combined floor area, and to all privately held Class C (commercial), E (tax exempt), P (preferential) or V (conservation) (all classifications as defined by the Georgia Department of Revenue) properties that (1) exceed 50,000 gross square feet in total combined floor area, or (2) are held in a condominium form of ownership governed by the same board of directors and that exceed 50,000 gross square feet in total combined floor area. **For private properties, the threshold is reduced to 25,000 gross square feet after January 1, 2017.** Certain properties are exempted under certain conditions, including where there is no Certificate of Occupancy for the entire calendar year, greater than 50 percent of the tenants are residential, the owner is not responsible for any part of the operations, maintenance or utility costs of base building systems, and hotels. The City will publish a list of all covered properties on the internet.

The new sustainability law imposes benchmarking, disclosure and audit obligations on an “Owner”, defined to include:

- a. Fee Title Owner;
- b. Triple Net Lessee that is the Single Tenant;
- c. Net Lessee with a 49 year or more term lease;
- d. Condominium Board of Directors;
- e. Cooperative Apartment Corporation Board of Directors; or
- f. An Agent authorized by any of the above.

No later than **June 22, 2015**, and every June 1 thereafter, Owners of all covered properties must track total energy and water consumption, including separately metered uses that are not integral to building operations, as well as output information such as greenhouse gas emissions, for the previous calendar year. If the Owner is not able to obtain whole-property data, the Owner must still complete the benchmarking using alternate values established by the City. (Note, however, that the ordinance also requires nonresidential tenants to provide such information upon request.) The results must be submitted to the City who will make them publically available.

<sup>1</sup> <http://www.agg.com/Mandatory-Sustainable-Building-Ordinance-Headed-for-Atlanta-City-Council-Vote-12-02-2009/>

Every 10 years, Owners of covered properties must perform an audit of energy and water use on the base building systems and file a summary report with the City. The audit shall include an analysis of “all reasonable measures, including capital improvements, that would, if implemented, reduce energy and water use and/or the cost of operating the building.” Under certain conditions, hotels and properties that have received EPA Energy Star certifications or other environmental rankings are exempt.

Owners are required to maintain energy and water records for three years. The City reserves the right to require filing and review fees for submittals, but none are imposed initially. Retro-commissioning, a process to identify and correct building system problems to maximize building performance, are optional.

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