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Title:	Amending Chapter 9-3400 of The Philadelphia Code, entitled “Energy Conservation,” to add a new Section 9-3403, entitled “Building Energy Performance Policy,” to require owners of certain large buildings to conduct tune-ups of the energy and water systems in such buildings, under certain terms and conditions.				
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10/2/2019	0	Committee on the Environment			
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Amending Chapter 9-3400 of The Philadelphia Code, entitled “Energy Conservation,” to add a new Section 9-3403, entitled “Building Energy Performance Policy,” to require owners of certain large buildings to conduct tune-ups of the energy and water systems in such buildings, under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Chapter 9-3400 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 9-3400. ENERGY CONSERVATION

* * *

§ 9-3403. Building Energy Performance Policy.

(1) Definitions. As used in this section, the terms below are defined as follows.

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(a) "Building tune-up report" shall mean a document summarizing the energy and water performance issues identified during an initial inspection and those issues which were subsequently resolved through corrective action.

(b) "Corrective action" shall mean adjustments and minor repairs to existing building energy and water equipment.

(c) "Covered building" shall mean any non-residential building with indoor floor space of at least 50,000 square feet.

(d) "Director" shall mean the Director of the Office of Sustainability.

(e) "Minor repairs" shall mean low-cost repairs to existing equipment such that the scope of work does not require permits from the Departments of Licenses and Inspections.

(f) "Qualified tune-up specialist" shall mean a licensed Professional Engineer or Certified Energy Manager and shall meet such other qualifications as the Office of Sustainability may establish through regulations.

(2) Tune-ups required. Except as provided in subsection (3), below, every owner of a covered building shall conduct a tune-up of such building's energy and water systems, consisting of an inspection component and a corrective action component, on a schedule set forth in subsection (4), below.

(a) Building tune-ups must be performed on the base building systems of the property. These include the systems or subsystems of a building that use energy or impact energy consumption including building envelope, the HVAC (heating ventilating and air conditioning) systems, conveying systems, domestic hot water systems and electrical lighting systems. Inspections and corrective actions shall cover the following:

(.1) Bill analysis: examine and verify energy and water data and perform basic billing analysis.

(.2) Sensors: examine for proper operation and appropriate location.

(.3) Schedules: examine schedules of all equipment for actual daily, weekly, holiday, and seasonal schedules; determine optimal schedules.

(.4) Set points: examine setpoints for all zones and equipment.

(.5) Outside air control: calculate ventilation requirements, measure actual ventilation rates, and determine optimal ventilation delivery and control.

(.6) Equipment controls: determine optimal equipment controls for energy efficient operations

(.7) Maintenance check: check for common maintenance items that impact energy usage.

(.8) Design issues: identify design issues leading to a high energy use such as missing insulation, mission controls, large leaks, unbalanced systems, critical zones.

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(.9) Lighting: identify outdated lighting technologies, over-lit spaces, and areas needing lighting controls.

(.10) Domestic plumbing system: determine maintenance needs.

(.11) The term "base building systems" shall not include:

a. Systems or subsystems owned by tenants (other than a net lessee for a term of 49 years or more, inclusive of renewal options), condominium unit owners or cooperative unit shareholders, or a system or subsystems for which a tenant bears full maintenance responsibility and that is within the tenant's leased space and/or exclusively serves such leased space.

b. Industrial processes that occur within a covered building.

(b) The inspection component of a tune-up shall be supervised by a qualified tune-up specialist. At the completion of the inspection, the specialist shall provide to the building owner a signed inspection report setting out findings and recommendations regarding each of the required inspection elements.

(c) The corrective action component of a tune-up shall resolve all adjustments and minor repairs that are identified through the inspection required in Section (2)(a) all as determined by regulations of the Office of Sustainability. Such regulations shall provide standards for determining what adjustments are low-cost and how to optimize usage in a manner that maximizes energy and water savings, maximizes the building owner's return on investment, and minimizes cost, all in light of building size, value and such other factors as the Office of Sustainability shall determine. The Office of Sustainability is authorized to further define corrective action by regulations. A final building tune-up report must be signed by a qualified tune-up specialist and submitted to the Office of Sustainability no later than the date set out in Section 4. The Office of Sustainability shall issue regulations in consultation with stakeholders to further clarify requirements.

(d) No tenant of a covered building may deny reasonable access to a building owner or a tune-up specialist for purposes of compliance with this Section, unless the Office of Sustainability provides an exemption for legitimate security concerns.

(3) Exemptions. Pursuant to regulations of the Office of Sustainability, a building owner may be exempted from a scheduled building tune-up upon a showing, no later than 180 days prior to a scheduled tune-up, of any of the following:

(a) A building, within the year immediately preceding the scheduled tune-up, has received a Certified ENERGY STAR Score of at least 75. "Certified ENERGY STAR Score" means the score certified and provided by the U.S. Environmental Protection Agency ENERGY STAR program indicating the relative energy performance of a building as compared to similar buildings nationwide, as verified and stamped by a licensed professional engineer or registered architect.

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(b) A building, within the three years prior to the scheduled tune-up, has either:

(.1) Received a green building certification that indicates an efficiently operating building. Such a certification includes a Gold Rating under the USGBC's LEED for Building Operations and Maintenance v4, or a Net-Zero Energy Certification from the International Living Future Institute, as those standards exist on September 1, 2019; or such equivalent or better certification, as determined by the Director.

(.2) Participated in and successfully completed a utility retro-commissioning incentive offering under a Pennsylvania Public Utility Commission-approved energy efficiency program or other such program, if approved by the Sustainability Director.

(.3) Completed a full retro- or re-commissioning procedure, with documentation that building performance was optimized.

(.4) Achieved energy savings of at least 15 percent and provided measurement and verification report to the Office of Sustainability.

(.5) Has undergone an energy audit no less stringent than the ASHRAE Level II standard and implemented all the no-cost/low-cost energy efficiency measures, defined as providing a simple payback of three years or less, identified in the audit.

(.6) Received its initial certificate of occupancy.

(c) A building already has in place active optimization efforts, including monitoring and ongoing commissioning, all as determined by the Director.

(d) A building is scheduled to be demolished within one year of the date of the scheduled tune-up.

(e) Such other factors as determined by the Director to justify an exemption, consistent with the purposes of this Section.

(4) Tune-up schedule.

(a) Building tune-up reports as defined in section (1) must be submitted to the Office of Sustainability on the dates as follows:

(.1) For buildings of at least 200,000 square feet: September 30, 2021.

(.2) For buildings of at least 100,000 square feet and less than 200,000 square feet: September 30, 2022.

(.3) For buildings of at least 70,000 square feet and less than 100,000 square feet: September 30, 2023.

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(.4) For buildings of at least 50,000 and less than 70,000 square feet: September 30, 2024.

(.5) Notwithstanding the foregoing, the Director may provide for an alternative initial scheduled tune-up date, no later than September 30, 2024, upon application by the School District of Philadelphia or a building owner that owns 20 or more covered buildings or cumulative floor area in covered buildings of five million (5,000,000) square feet or more.

(b) Submitted building tune-up reports must cover inspections and corrective actions completed no earlier than two years prior to the scheduled tune-up date.

(c) All subsequent scheduled tune-up dates shall be five years after the prior scheduled tune-up date.

(d) Newly constructed buildings shall comply with the applicable schedule for the building size provided by this subsection (4).

(e) The Director may grant an extension, upon a showing of good cause. Such an extension shall not extend any subsequent scheduled tune-up date. Good cause may include:

(.1) Less than 50 percent of a building's rentable floor area is occupied.

(.2) Immediate compliance will present a burden disproportionate to the value of the building.

(.3) Such other showings as the Director may allow.

(5) Building tune-up reports. Reports summarizing the energy and water performance issues identified during an initial inspection and those issues which were subsequently resolved through corrective action shall be in a form satisfactory to the Director. The Office of Sustainability will publish a public inventory of both those properties certified as high performance as well as those that have completed a tune-up, must complete one in a future year, or are in violation of Chapter 9-3403 for non-compliance.

(6) Penalties. A violation of this Section shall subject a building owner to a fine of two thousand dollars ($2,000). Each day that a building owner fails to file a required report or take a required action after the thirtieth day after the deadline for such filing or such action shall constitute a separate violation, subject to a fine of five hundred dollars ($500) for each such day. No stipulated payment shall be available under § 1-112 ("Notices of Violation").

(7) Annual report. The Office of Sustainability shall, annually, submit to Council a report reviewing and evaluating the administration and enforcement of this Section and analyzing data obtained from inspection and implementation reports filed with the Office. The report shall address (a) the energy and water efficiency of buildings in the City, (b) the accuracy of the building energy tune-up results submitted to the City, (c) compliance with the requirements of this Section, (d) any administrative and legislative recommendations for strengthening the administration and enforcement of this Section, and (e) such other information and analysis

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the Office of Sustainability deems appropriate.

SECTION 2. This Ordinance shall take effect upon certification to the Council by the Director of Sustainability that the necessary implementing regulations are in place.