















fit to offer exemptions to the requirements set forth in the enabling ordinance. The Office therefore shall also consider exemptions for the following criteria:

i. Low Site EUI

A. Weather-normalized site EUI shall be equal to or less than twenty (20) kBtu/sq. ft. for at least two of the three preceding calendar years to the Compliance Deadline.

B. To qualify for a Low Site EUI exemption, owner(s) shall submit to the Director (1) a copy of the Statement of Energy Performance (SEP) for each of the qualifying years and (2) written validation of the SEP data by any person with Specialist qualifications. The Director shall, at his or her discretion, approve or deny this exemption, and no exemption is available as-of-right.

ii. Such other factors as determined by the Director to justify an exemption consistent with the purposes of this Section.

f. Extensions.

i. Building owners pursuing the fifteen percent (15%) energy-saving exemption above may request a non-guaranteed extension of one (1) year to submit the required documentation. No sooner than one hundred eighty (180) days prior to the Compliance Deadline, the owner shall provide in writing and in a form acceptable to the OOS, evidence sufficient to the OOS that the building will meet the exemption requirement. If the application fails, the Covered Building shall conduct a Tune-up within one (1) year of the date of its exemption denial.

ii. Building owners pursuing energy audits no less stringent than the ASHRAE Level II Commercial Building Energy Audit standard exemption may request a nonguaranteed extension of one (1) year to submit the required documentation related to the implementation of the no-cost/low-cost energy efficiency measures, defined as providing a simple payback of three years or less, identified in the audit. No sooner than one hundred eighty (180) days prior to the Compliance Deadline, the owner shall provide in writing and in a form acceptable to the OOS, evidence sufficient to the OOS that the building will meet the exemption requirement. If the application fails, the Covered Building shall conduct a Tune-up within one (1) year of the date of its exemption denial.

iii. Building owners pursuing the Active Optimization exemption may, upon application no sooner than one hundred eighty (180) days prior to the Compliance Deadline and approval by OOS, receive an extension of no more than two (2) years from the Compliance Deadline to implement the Active Optimization and collect relevant data thereof. Extension applications under this subsection shall include: (1) description of the type of program; (2) systems to be actively optimized; (3) timeline for launch and data qualification; and (4) verification by a person possessing Specialist qualifications.



A. Extensions must be requested no sooner than one hundred eighty (180) days prior to the Compliance Deadline.

B. The Office reserves the right to reject any extension request, and Tune-ups shall be completed within one (1) year of the date of any notice of rejection of extension.

iv. Notwithstanding any provision in these regulations, the Director may, at their discretion, delay any Compliance Deadlines or related enforcement deadline. Reasonable notice shall be given to the owner(s) of any Covered Building affected by such delay.

A. In light of the COVID-19 Emergency, the initial Compliance Deadline for buildings of at least 200,000 square feet was amended to September 30, 2022. All subsequent Compliance Deadlines shall be in accordance with their original reporting date, as provided by Section 9-3404(4) of The Philadelphia Code, with subsequent Tune-ups reports to be submitted by September 30, 2026 and five years thereafter.

## **Section 8. Alternative Schedules for Large Building Portfolios**

a. Large Portfolio Owners seeking alternative schedule(s) for compliance shall submit a Compliance Plan to the Director for review. No review shall be granted as of right. The Compliance Plan shall include, for each building: (1) the Covered Building OPA number; (2) covered area in square feet of the Covered Building; (3) whether the owner intends to conduct a Tune-up or seeks an exemption; and (4) the proposed Compliance Year for the building.

i. Where the owner seeks an exemption, the plan must include the exemption sought.

ii. For buildings that will conduct a Tune-up in the Compliance Year during which the plan is submitted, the plan must include whether the Specialist conducting the Tune-up will be a third-party, or in-house staff.

b. Large Portfolio Owners must submit Compliance Plans no sooner than two hundred seventy (270) days prior to the Compliance Deadline, or the first business day after this date. The Director shall respond to Compliance Plans within thirty (30) days. If the Director requests additional information, that information shall be submitted in full within thirty (30) days of the date of the Director's written response.

c. Compliance Plans may be amended in subsequent years. Amended Compliance Plans shall follow the same procedures as set forth in this Section 8.

d. The initial Compliance Deadline for Extensive Portfolio Owners shall be no later than September 30, 2029. Extensive Portfolio Owners shall adhere to the requirements for alternative schedules as set forth in this Section 8.

### **Section 9. Penalties and Rights of Appeal.**

a. Failure to comply with these regulations constitutes a violation of Title 9 of The Philadelphia Code, and subject to the penalties as set forth in Subsection A-601, Title 4 of The Philadelphia Code.

b. Appeals of any rejection or finding of OOS may be directed to the Director on a form provided by OOS within thirty (30) days of the date of the rejection or finding.

c. In the collection of the daily fines that will accrue to non-compliant buildings, OOS reserves the right to aggregate fines over a period (*e.g.*, a month or fiscal quarter) and send a lump sum bill to the Owner. OOS will inform noncompliant buildings when penalties begin to take effect and the period over which daily fines will be aggregated.

### **Section 10. Miscellaneous Provisions.**

a. Data Privacy.

i. Tune-up reports for individual Covered Buildings shall not be made public.

ii. The City may aggregate data for public release and will take reasonable precautions to ensure that specific building data cannot be determined by a lay person in these aggregated data sets.

b. City Quality Assurance.

i. The City or its employee(s), agent(s), or assign(s) may conduct from time to time a quality assurance assessment on any Covered Building that submits a Tune-up report.

ii. The Director, upon a showing of inconsistencies between the Tune-up report and the quality assurance assessment, may require another Tune-up, conducted by a Specialist. Such remedial Tune-up shall be completed by any date set by the Director.

**Section 11. Effective Date.** OOS shall implement these regulations immediately upon confirmation from the Department of Records that they are permanent.