

ORDINANCE NO. 7467

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, ADOPTING A RESIDENTIAL ENERGY PERFORMANCE RATING AND DISCLOSURE POLICY AND AMENDING THE OLYMPIA MUNICIPAL CODE TITLE 16 BY ADDING A NEW CHAPTER 16.07 ENTITLED RESIDENTIAL ENERGY PERFORMANCE RATING AND DISCLOSURE

WHEREAS, climate change is an existential crisis posing one of the most serious threats to the existence of humanity and all species on the planet; a threat that intersects and compounds all other crises facing humanity and our earth; and

WHEREAS, in 2019, Olympia City Council passed a Resolution Expressing a Commitment to Protect the Youth of this Community from the Risks of Climate Destruction (Resolution No. M-2045) and to achieve net zero emissions by 2040; and

WHEREAS, in February 2021, Olympia City Council passed a Resolution Declaring a Climate Emergency (Resolution No. M-2194) and accepted the Thurston Climate Mitigation Plan as a regional framework to reduce community-wide greenhouse gas emissions 45 percent below 2015 levels by 2030 and 85 percent below 2015 levels by 2050; and

WHEREAS, residential buildings are one of the largest sources of emissions in Olympia, and the Olympia 2045 Comprehensive Plan includes Policy PL5.5 Partner with regional jurisdictions to develop and implement a local policy for assessment and disclosure of residential energy performance ratings at the time of lease, sale, or rent; and

WHEREAS, at the 2023 Thurston Climate Mitigation Collaborative (TCMC) Annual Retreat and subsequent Executive Committee meeting on June 26, 2023, the TCMC agreed to advance two regional initiatives for focused regional coordination in 2024: (1) design a Residential Energy Efficiency and Electrification Campaign and (2) develop a Home Energy Score Model Ordinance; and

WHEREAS, in 2023, the City Council approved an Interlocal Agreement among Thurston County and the cities of Lacey, Olympia, and Tumwater to support the implementation of the 2024 TCMC Regional Initiatives (Resolution No. M-2461); and

WHEREAS, the TCMC has engaged the TCMC Community Advisory Workgroup, members of the public, and held four focus group discussions with key stakeholders to develop this proposed Ordinance; and

WHEREAS, the Olympia City Council finds that for a home energy disclosure policy to be effective at reducing emissions and informing prospective homebuyers, the Olympia Municipal Code should be amended to include this requirement; and

WHEREAS, imposition of a home energy disclosure requirement is specifically authorized by RCW 35A.11.020 (which specifically authorizes the City to enact any ordinance not in conflict with the general state law) and the requirement will be implemented consistent with RCW 64.06.080;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OLYMPIA ORDAINS AS FOLLOWS:

Section 2. Amendment of OMC 16.00.000. Olympia Municipal Code Section 16.00.000 is hereby amended to read as follows:

16.00.000 Title Contents

Title 16
BUILDINGS AND CONSTRUCTION

Chapters:

- 16.04 Building Codes**
- 16.05 Alternate Methods and Materials for Mixed Use Apartment Buildings**
- 16.07 Residential Energy Performance Rating and Disclosure**
- 16.06 Property Maintenance Code**
- 16.10 Unsafe and Unfit Buildings, Structures, and Premises**
- 16.18 Noxious Weeds**
- 16.24 Electrical Code**
- 16.32 Fire Code**
- 16.36 Fire Hydrants**
- 16.40 Fire Extinguishing Systems**
- 16.44 Alarm Code**
- 16.46 Security Alarm Systems**
- 16.48 Grading and Clearing**
- 16.56 Landmark Tree Protection**
- 16.58 Public Trees**
- 16.60 Tree, Soil and Native Vegetation Protection and Replacement**
- 16.70 Flood Damage Prevention**
- 16.80 Sea Level Rise Flood Damage Reduction**
- 16.90 General Provisions Governing the Procurement of Compost Products in Projects**
- 16.100 Electric Vehicle Parking**

Section 2. NEW CHAPTER 16.07. The following NEW CHAPTER 16.07, Residential Energy Performance Rating and Disclosure, is hereby added to Title 16 of the Olympia Municipal Code.

NEW CHAPTER 16.07

RESIDENTIAL ENERGY PERFORMANCE RATING AND DISCLOSURE

16.07.000 Chapter Contents

Sections:

- 16.07.010 Purpose.
- 16.07.020 Definitions.
- 16.07.030 Authority of the Director.
- 16.07.040 Home Energy Score Rating and Disclosure for Subject Buildings.
- 16.07.050 New Construction of Subject Buildings.
- 16.07.060 Exemptions and Waivers.
- 16.07.070 Expiration.
- 16.07.080 Violation.
- 16.07.090 Subsidy.

16.07.010 Purpose.

The purpose of Residential Energy Performance Rating and Disclosure is to require that homebuyers be provided with information about residential building energy performance prior to the time of property purchase to enable more informed decisions about the full costs of operating dwelling units and to encourage investments in improvements that lower utility bills, reduce carbon emissions, and increase the

comfort, safety, and health of building occupants. This disclosure is in addition to the minimum disclosures described in chapter 64.06 RCW.

16.07.020 Definitions.

Certain terms, words and phrases, whenever used in this chapter, have the meanings defined in this section.

- A. "Director" means the director of the Community Planning and Economic Development department of the city or their designee.
- B. "Energy" means electricity, natural gas, propane, heating oil, wood, or other fuel used for purposes of providing heating, cooling, lighting, water heating, or powering other end-uses in the building and related facilities.
- C. "Home energy performance report" means the report prepared by a registered home energy score assessor utilizing the reporting template provided by the director. The report must include the following information:
 - 1. The home energy performance score, using methods developed by the United States Department of Energy, and an explanation of the score;
 - 2. An estimate of the total annual energy used in the dwelling unit in retail units of energy by fuel type;
 - 3. An estimate of the total annual energy generated by onsite solar electric, wind electric, hydroelectric, and/or solar water heating systems in retail units of energy, by type of fuel displaced by the onsite generation;
 - 4. An estimate of the total monthly or annual cost of energy purchased for use in the subject building in dollars by fuel type, based on the current average annual retail residential energy price of the utility serving the subject building at the time of the report and the average annual energy prices of nonregulated fuels by fuel type;
 - 5. The current average annual utility retail residential energy price in dollars by fuel type and the average annual energy prices by fuel type;
 - 6. At least one comparison home energy performance score that provides context for the range of potential scores. Examples of comparison dwelling units include, but are not limited to, a similar dwelling unit with Washington's average energy consumption, the same type of dwelling unit built to Washington energy code, or the same type of dwelling unit with certain energy efficiency upgrades;
 - 7. The identification of efficiency measures that may be installed directly by consumers;
 - 8. The date when the building energy assessment was performed;
 - 9. The name, contact information, and business license number for the registered home energy score assessor who completed the scoring; and
 - 10. Such other information as specified by the director.

- D. "Home energy score" means the U.S. Department of Energy's Home Energy Score which is an asset rating based on physical inspection of the dwelling unit or review of the design documents used for the dwelling unit's construction.
- E. "Low-income" means any household of the City of Olympia earning 80% or less than 80% of the Area Median Income as defined by the U.S. Department of Housing and Urban Development.
- F. "Real estate listing" means any real estate listed publicly for sale in the city by a property owner, representative of a property owner, or a licensed real estate agent. Real estate listings include any printed advertisement, internet posting, or publicly displayed sign, including Regional Multiple Listing Service, Craigslist, Nextdoor and other social media platforms, Redfin, Zillow, Trulia, and other third-party listing services.
- G. "Registered home energy score assessor" means a person who has a valid and up-to-date certification from the U.S. Department of Energy as a home energy score assessor and who is registered with the city to provide a home energy performance report. To be registered with the city, a person must meet all registration requirements established by the director.
- H. "Sale" means the conveyance of title to real property because of the execution of a real property sales contract. Sale does not include the transfer of real property as defined in RCW 64.06.010 as in effect as of the date of this ordinance and as amended.
- I. "Seller" means any of the following: any individual or entity possessing title to real property that includes a subject building, the association of unit owners responsible for overall management in the case of a condominium, or other representative body of the jointly owned building with authority to make decisions about building assessments and alterations.
- J. "Subject Buildings" means single-family detached dwellings, duplexes, triplexes, quadplexes, cottage housing, townhouses, and attached accessory dwelling units as defined in chapter 18.02 OMC.

16.07.030 Authority of the Director.

- A. The director shall administer and enforce this chapter's provisions.
- B. The director shall adopt rules and regulations, procedures, and forms to implement this chapter's provisions.

16.07.040 Home Energy Score Rating and Disclosure for Subject Buildings.

Prior to publicly listing any dwelling unit(s) of a subject building for sale, the seller of the dwelling unit, or the seller's designated representative, shall:

- A. Obtain a home energy performance report for the dwelling unit(s) of the subject building from a registered home energy score assessor;
- B. Include the home energy score in all real estate listings and contact information to request the home energy performance report;
- C. Append the home energy performance report when attachments are accepted by the listing service;
- D. Provide a copy of the home energy performance report to all the following:

1. All licensed real estate agents working on the seller's behalf; and
 2. Prospective homebuyers while the subject building is listed publicly for sale; and
- E. Maintain a copy of the home energy performance report for five years, available for review by the director upon request for quality assurance and evaluation of policy compliance.

16.07.050 New Construction of Subject Buildings.

At or prior to the time of the first sale of a newly constructed subject building, the seller of the dwelling unit, or the seller's designated representative, may:

- A. Provide a home energy score that was generated from either design specifications or an on-site inspection.
- B. Obtain and replicate a single home energy performance report for subject buildings constructed within the same land division using identical design specifications with identical features including, but not limited to, floorplan, type and amount of insulation, windows, attic fans, heating and cooling systems, hot water heaters, and appliances.

16.07.060 Exemptions and Waivers.

- A. Subject buildings on federal land or tribal land are exempt from the requirements outlined in OMC 16.07.040.
- B. The director shall exempt a seller from the requirements of this chapter if the seller submits documentation that the subject building is undergoing a transfer of real property as defined by RCW 64.06.010, as is in effect as of the date of this ordinance and as amended.
- C. The director may exempt a seller from the requirements of this chapter after confirming that compliance would cause undue hardship for the seller under the following circumstances:
 1. The subject building qualifies for sale at public auction or acquisition by a public agency due to arrears for property taxes;
 2. A court-appointed receiver is in control of the subject building due to financial distress; or
 3. The senior mortgage on the subject building is subject to a notice of default; or
 4. The seller is otherwise unable to meet the obligations of this chapter as determined by the director.

16.07.070 Expiration

The home energy score is valid for 10 years after the assessment date (including new construction assessments as described in OMC 16.07.050), provided that no changes to mechanical systems, building envelope, energy efficiency or square footage in the home has occurred. For the purposes of this section, an assessment date is the date the assessment was completed.

16.07.080 Violation.

- A. It is a violation of this chapter for any person, as defined in OMC 4.50.020, to fail to comply with the requirements of this chapter or to misrepresent any material fact in a document required to be prepared or disclosed by this chapter.
- B. **Penalties.** It is a civil infraction for any person, as defined in OMC 4.50.020, to violate or fail to comply with any term or provision of this title. Each day is a separate infraction. A person found to have committed a civil infraction will be assessed a monetary penalty consistent with chapter 4.40 OMC, as follows:
 - 1. First offense: Class 3 (\$50), not including statutory assessments.
 - 2. Second offense arising out of the same facts as the first offense: Class 2 (\$125), not including statutory assessments.
 - 3. Third offense arising out of the same facts as the first offense: Class 1 (\$250), not including statutory assessments.
- C. **Enforcement.** The city may, but is not obligated, to enforce this chapter through Chapter 4.44 OMC, Uniform Civil Enforcement.

16.07.090 Subsidy.


The City of Olympia shall fully subsidize home energy score audits as required by Chapter 16.07 OMC for sellers whose households meet the low-income definition of this chapter.

Section 3. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this ordinance including the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers, and any references thereto.

Section 4. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 5. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance or the invalidity of the application thereof to any person or circumstance, does not affect the validity of the remainder of the ordinance, or the validity of its application to other persons or circumstances.

Section 6. Effective Date. This Ordinance is effective on May 1, 2027.



 MAYOR

ATTEST:

Sean Krier

 CITY CLERK

APPROVED AS TO FORM:

Michael M. Young

 SENIOR DEPUTY CITY ATTORNEY