

ORDINANCE NO. 6376

AN ORDINANCE AMENDING THE HILLSBORO MUNICIPAL CODE BY ADDING SUBCHAPTER 6.44 RELATING TO RESIDENTIAL ENERGY PERFORMANCE RATING AND DISCLOSURE REQUIREMENTS

WHEREAS, the Hillsboro City Council has adopted an equity statement that seeks to, among other things, remove economic disparities in the community; and

WHEREAS, the most common outcomes of poverty experienced by community members in Hillsboro is to fall behind on utility bills; and

WHEREAS, affordable utility bills is cited as the number one priority for Hillsboro community members experiencing poverty to feel stable and secure; and

WHEREAS, between 15% and 29% of Hillsboro households spend more than 6% on energy for their home, meaning that they are energy burdened; and

WHEREAS, Hillsboro community members of color are more than twice as likely to be living in poverty as compared to white community members; and

WHEREAS, the Hillsboro City Council has adopted goals to reduce community-wide residential energy use 25% by 2035 over a 2010 baseline, and to conduct energy retrofits for 20% of Hillsboro single family homes by 2020; and

WHEREAS, according to the Oregon Department of Energy residential building energy use contributes 15% of Oregon's greenhouse gas emissions; and

WHEREAS, disclosure of information about the expected energy costs of a building is important for consumer protection, planning and transparency when purchasing a home and considering the long-term cost of utilities; and

WHEREAS, a home energy score is a numerical energy efficiency rating for homes – analogous to miles per gallon (MPG) for cars and trucks – that accounts for a home's physical properties, heating and cooling systems, site properties, and other aspects; and

WHEREAS a home energy score policy provides homeowners and homebuyers with information that will enable them to choose energy efficiency upgrades and/or homes that are more energy and cost efficient; and

WHEREAS, a home energy score policy in Hillsboro has strong potential to reduce energy utility consumption and costs for community members, and to move the City toward its established community goals.

NOW, THEREFORE, THE CITY OF HILLSBORO ORDAINS AS FOLLOWS:

Section 1. Chapter 6 of the Hillsboro Municipal Code is amended by adding Subchapter 6.44, entitled “Residential Energy Performance Rating and Disclosure” to read as set forth in Exhibit “A.”

Section 2. The Sections, Subsections, Paragraphs and clauses of this ordinance are severable. The invalidity of one Section, Subsection, Paragraph or clause shall not affect the validity of the remaining Sections, Subsections, Paragraphs or clauses.

Section 3. This ordinance shall be effective on September 1, 2021.

First approval of the Council on this 15th day of June, 2021.

Second approval and adoption by the Council on this 6th day of July, 2021.

Approved by the Mayor this 6th day of July, 2021.

ATTEST:

DocuSigned by:
Amber Ames
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Amber Ames, City Recorder

DocuSigned by:
Steve Callaway
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Steve Callaway, Mayor

Exhibit A

CHAPTER 6: HEALTH AND WELFARE

SUBCHAPTER 6.44

RESIDENTIAL ENERGY PERFORMANCE RATING AND DISCLOSURE

6.44.010 Purpose. The purpose of this subchapter is to provide information about residential building energy performance. This information is designed to help provide greater transparency and inform decision making during the home buying process, and to motivate investments in home improvements that lower utility bills and energy use, reduce carbon emissions, and increase comfort, safety, and health for homeowners and homebuyers.

6.44.020 Definitions. For purposes of the Chapter, the following definitions apply unless inconsistent with the context:

- A. **ACCESSORY DWELLING UNIT**, A second dwelling existing on a lot with a single-family detached dwelling. The accessory dwelling unit is incidental to, and smaller than, the primary dwelling on the lot. The accessory dwelling unit must be contained in its own structure apart from the primary structure. The accessory dwelling unit includes its own independent living facilities including provisions for sleeping, cooking, and sanitation and is designed for residential occupancy by one or more people independent of the primary dwelling unit.
- B. **COVERED BUILDING**, Any residential structure containing a single dwelling unit, regardless of size, on its own lot, or any attached single dwelling unit, regardless of whether it is located on its own lot, where each unit extends from foundation to roof, such as a row house, attached house, common-wall house, duplex, or townhouse. "Covered building" does not include detached accessory dwelling units, manufactured dwellings, stacked condominiums or dwelling units where the unit does not extend from foundation to roof, or single dwelling units used solely for commercial purposes.
- C. **ENERGY**, Means electricity, natural gas, propane, steam, heating oil, wood or other product sold for use in a building, or renewable on-site electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities.
- D. **HOME ENERGY ASSESSOR**, A person who is certified as a home energy assessor by the Oregon Construction Contractors Board to determine home energy performance scores for residential dwelling units.
- E. **HOME ENERGY PERFORMANCE REPORT**, A report prepared by a home energy assessor must either comply with Oregon Administrative Rules adopted by Oregon Department of Energy for Oregon's Home Energy Score Standard or include the following information:
 - 1. The home energy performance score and an explanation of the score;
 - 2. An estimate of the total annual energy used in the home 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 solar water heating systems in retail units of energy, by type of fuel displaced by the generation;
 4. An estimate of the total monthly or annual cost of energy purchased for use in the covered building in dollars, by fuel type, based on the current average annual retail residential energy price of the utility serving the covered building at the time of the report and the average annual energy prices of nonregulated fuels, by fuel type, as provided by the Oregon Department of Energy;
 5. The current average annual utility retail residential energy price in dollars, by fuel type, and the average energy prices of nonregulated fuels, by fuel type, provided by the Oregon Department of Energy;
 6. At least one comparison home energy performance score that provides context for the range of potential scores. Examples of comparison homes include, but are not limited to, a similar home with Oregon's average energy consumption, the same home built to Oregon energy code, or the same home with certain energy efficiency upgrades;
 7. The name of the entity that assigned the home energy performance score and that entity's Oregon Construction Contractors Board license number if such a license is required by law;
 8. The date the building energy assessment was performed;
 9. For reports that meet all requirements of Oregon Administrative Rules adopted by Oregon Department of Energy for Oregon's Home Energy Performance Score Standard, the statement "This report meets Oregon's Home Energy Performance Score standard" must be included on home energy performance reports;
 10. A disclaimer on the potential impacts of vegetation and exterior building features on energy efficiency, for example, "Trees and exterior building features may provide additional energy efficiency benefits to the building. Visit Energy.gov to learn more;" and
 11. A disclaimer on the potential for undisclosed energy efficient improvements and/or assets in the building, for example, "Additional energy efficient features may be present in the home and were not documented at time of Home Energy Score assessment."
- F. **LISTED PUBLICLY FOR SALE**, Listing the covered building for sale by printed advertisement, internet posting, Regional Multiple Listing Service (RMLS) listing, or publicly displayed sign.
- G. **MANUFACTURED DWELLING**. A residential trailer, mobile home, or manufactured home designed to be used as a year-round residential dwelling. The manufactured dwelling is a structure that is constructed for movement on the public highways, that has sleeping, cooking, and plumbing facilities and that is being used for residential purposes.
- H. **MANUFACTURED HOME**, A manufactured dwelling constructed after June 15, 1976 in accordance with federal manufactured housing construction and safety standards (HUD code) in effect at the time of construction.
- I. **MOBILE HOME**, A manufactured dwelling that was constructed between January 1, 1962 and June 15, 1976, in accordance with the construction requirements of Oregon mobile home law in effect at the time of construction.

- J. **REAL ESTATE LISTING**, Any public real estate listing of homes for sale in the City of Hillsboro. “Real estate listings” include listing a home for sale by a property owner or by a licensed real estate agent or broker. “Real estate listings” include any printed advertisement, internet posting, or publicly displayed sign, including but not limited to RMLS, Redfin, Zillow, Trulia and other third party listing services.
- K. **RESIDENTIAL TRAILER**, A manufactured dwelling that was constructed prior to January 1, 1962 which was not constructed in accordance with federal manufactured housing construction and safety standards (HUD code), or the construction requirements of Oregon mobile home law.
- L. **SALE**, The conveyance of title to real property as a result of the execution of a real property sales contract.
- M. **SELLER**, Means any of the following: Any individual or entity possessing title to a property that includes a covered 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.
- N. **SINGLE-FAMILY DETACHED DWELLING**, A structure, or manufactured home, containing one dwelling unit with no structural connection to adjacent units.

6.44.030 Energy Performance Rating and Disclosure for Covered Buildings.

- A. Prior to any covered building being listed publicly for sale, the seller of the covered building, or the seller's designated representative, must obtain a home energy performance report of such building from a state licensed home energy assessor, and provide a copy of the home energy performance report to all licensed real estate agents and brokers working on the sale of the building on the seller's behalf.
- B. During any time in which a covered building is listed publicly for sale, the seller of the covered building, or the seller’s designated representative must:
 - 1. Make available the home energy performance report for the building to all prospective buyers who visit the building;
 - 2. Maintain a copy of the home energy performance report available for review by the Manager upon request; and
 - 3. Include the home energy performance score in all real estate listings, including the home energy performance report if attachments are accepted by the listing service.

6.44.040 Home Energy Performance Reports for Identical Newly Built Covered Buildings.

A single home energy performance report may be obtained and replicated for covered buildings constructed during the same time period and within the same neighborhood or immediate geographical area. The homes must be constructed using the identical floor plan and with identical features including, but not limited to, type and amount of insulation, windows, attic fans, heating and cooling systems, hot water heaters, and appliances.

6.44.050 Exemptions and Waivers.

- A. The Manager will exempt a seller from the requirements of this chapter if the seller submits documentation that the covered building will be sold through any of the following:
1. Transfer of title pursuant to inheritance;
 2. Involuntary transfer of title resulting from default on an obligation secured by real property;
 3. Change of title pursuant to marriage or divorce;
 4. Condemnation; or
 5. Or any other involuntary change of title affected by operation of law.
- B. The Manager may exempt a seller from the requirements of this chapter if the seller submits documentation confirming that compliance would cause undue hardship for the seller under the following circumstances:
1. A trustee's sale;
 2. A deed-in-lieu of foreclosure sale;
 3. A pre-foreclosure sale in which seller has reached an agreement with the mortgage holder to sell the property for an amount less than the amount owed on the mortgage;
 4. A sale at public auction or acquisition by a public agency due to arrears for property taxes;
 5. A court appointed receiver is in control of the covered building due to financial distress;
 6. The senior mortgage on the covered building is subject to a notice of default;
 7. The covered building has been approved for participation in Oregon Property Tax Deferral for Disabled and Senior Citizens, or equivalent program as determined by the City Manager; or
 8. The responsible party is otherwise unable to meet the obligations of this chapter as determined by the City Manager.

6.44.060 Financial Assistance.

1. To the extent that City funds are available, the City Manager may provide a grant to the seller of a covered building for the cost of obtaining a home energy performance report provided that the seller has been deemed eligible to participate in a low income assistance program offered by the City or other governmental entity.

6.44.070 Enforcement and Penalties.

1. It is a violation of this subchapter for any person to fail to comply with the requirements of this subchapter or to misrepresent any material fact in a document required to be prepared or disclosed by this subchapter.
2. A violation of this subchapter is subject to a penalty of up to \$500. For every subsequent 90-day period during which the violation continues a separate penalty of up to \$500 may be imposed.
3. Prior to issuing a citation for a violation of this subchapter, the Manager shall issue a written warning notice to the person responsible for the violation, describing the violation and steps required to come into compliance. The notice required by this subsection shall provide 15 days to reach compliance before a citation is issued.