HOME ENERGY SCORE – PROPOSED POLICY 9.6.2016 DRAFT

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Benefits

For Sellers:

- Of Single-family Homes
- Of Newly Constructed Homes

For Landlords

Frequently Asked Questions

Why a Home Energy Score Policy?

Scores, labels and ratings are a regular part of how we communicate information. We consult miles-per-gallon ratings on cars, nutrition labels on food, and Energy Guide labels on appliances to make informed consumer decisions. However, **consumer labeling for homes is inconsistent and unavailable** in most real estate markets.

Of Portland's 160,000 single-family homes, **less than two percent have an energy score.**

The commercial buildings market has been quicker to adopt benchmarking practices. In 2015, Portland City Council adopted mandatory energy benchmarking and disclosure for large commercial buildings. By April 2017, 80 percent of Portland's commercial building square footage will be reporting energy performance. The **proposed Home Energy Score Ordinance is a companion to the commercial policy.**

In 2009, the Oregon Legislature established a voluntary framework for home energy scoring. In 2013, additional legislation created licensing and training for certified professionals who can assess homes and produce scores. In 2015, these contractors delivered about 600 home energy scores to homeowners in Portland, mostly through programs offered by Energy Trust of Oregon and Enhabit (formerly Clean Energy Works). The average cost of a home energy score is $150 to $250.

Reaching Climate Action Goals

Voluntary efforts to date are a step in the right direction; however, we cannot achieve the 2015 Climate Action Plan goal to reduce carbon emissions 80 percent by 2050 **unless we significantly accelerate energy efficiency** and renewable energy activities in the residential sector. Residential buildings contribute nearly half of the emissions from buildings.

Local government plays a critical role in making it easier for people to save energy, protect against rising energy prices in the future and reduce carbon pollution. Requiring home energy scores is one of the policy tools the City has available to catalyze change in the residential sector.

Home energy scores are a means of conveying previously unknown but critical information to both buyers and sellers of homes. When homeowners invest in improving the energy efficiency of their homes, those costs may be recouped as scores translate into a value that can be recognized by the market. A recent analysis that included over 20 studies worldwide of homes with green certifications demonstrated that **green certified homes sell for up to four percent higher** than a comparable home.

Beyond lower energy bills and greater housing affordability, energy-efficient homes are more comfortable and livable. The indoor air quality of these homes is better, leading to healthier lives. Home energy scores afford consumers a measure of protection when making one of the biggest financial investments most people ever make.

Home Energy Score Proposal

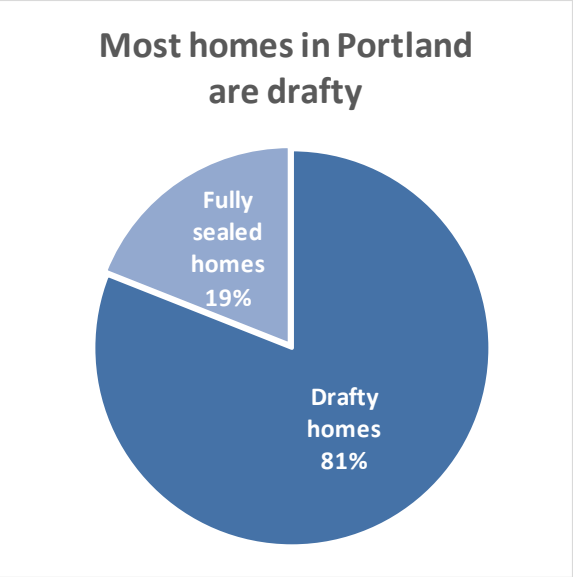
The City of Portland proposes a new policy that would require sellers of single-family homes to incorporate the following practices:

1. Obtain a home energy performance report.[1]

2. Disclose the information from the home energy performance report to the City of Portland at or before the time that the home is listed for sale and to prospective home buyers who visit the home while it is on the market.

Single-family homes include existing detached single-family homes; existing attached single-family structures like townhomes[2]; and newly constructed homes that are either detached or attached side-by-side.

Initially, the requirement will apply only to owner-occupied units. Requirements for single-family rental homes will be phased in over time. Detached accessory dwelling units (ADUs) are not covered by the proposed requirement.



In 2014, Enhabit estimated the market potential in Portland for energy efficiency improvements in single-family homes, based on data from the NW residential Building Stock Assessment 2011 and U.S. Census data. They found that roughly 130,000 single-family homes are leaky, having greater than 7.5 air changes per hour.

Benefits

For Owners

- **Information on money-saving home improvements.**

For Buyers

- **Better insight into the full costs of owning or renting a home.**
- **Ability to compare energy costs and performance between homes.**
- **Knowledge of potential home improvements in advance of purchase.**
- **Access to additional mortgage products.**

For Sellers

- **Recoup investments in energy upgrades at time of sale.**

[1] This term has been defined and codified in Oregon Revised Statutes 469.703 and 469.040 and in Oregon Administrative Rule OAR 330-063-0000. Portland's policy will refer to and incorporate the State's definition.

[2] The policy will apply to attached single-family homes that are laid out side-by-side and not stacked. Energy modeling software can provide individual scores for attached homes only when they are side-by-side and not stacked.

For Sellers of Single-family Homes

Detached homes and side-by-side attached townhomes

Who is responsible?

Sellers who put a single-family home on the market for sale in Portland.

What are the requirements?

1. **Obtain a home energy performance report that complies with the State definition[3], which includes the following information:**

   - A score, as generated by a home energy performance score system[4], and an explanation of the score.
   - An estimate of the total annual energy used in the home, by fuel type.
   - An estimate of the total monthly or annual cost of energy purchased for use in the home, in dollars, by fuel type.
   - The current average annual utility retail energy price, by fuel type.

2. **Provide the home energy performance report** to the City of Portland and to any prospective buyer who visits the home while it is on the market.

How to comply?

At any time prior to listing the home publicly for sale on the real estate market, the seller will obtain a home energy assessment conducted by a licensed and certified home energy assessor[5]. The State of Oregon has established criteria for certifying home energy assessors, including specialized training requirements.

The home energy assessor will conduct an onsite assessment and use energy modeling software to produce an energy score for the home. The modeling software used by assessors will be the **U.S. Department of Energy's Home Energy Score tool.** This tool is compliant with Oregon House Bill 2801, which gives authority to the Oregon Department of Energy to approve home energy scoring tools. The home energy assessor will make the score and report available to the seller after the assessment.

Home Energy Score software produces a number on a scale from one to ten, where five represents the performance of the average home. More energy-efficient homes will have higher scores.

Sellers must make the home energy performance report available to any prospective buyer who comes to the home. This can be accomplished in multiple ways: for example, by having a supply of printed reports available in the home or by posting information in a label format inside the home. Specific implementation details will be determined in rulemaking.

Sellers also must provide the home energy performance report to the City of Portland via email or online web form set up by the City specifically for this purpose**. The City intends to make energy performance reports publicly available through Portlandmaps.com.** Sellers may also provide the score to their real-estate professional, if they are working with one. The real-estate professional may choose to use this to market the home and populate listings with the score and associated information from the home energy performance report.

[3, 4, 5] These terms have been defined and codified in Oregon Revised Statutes 469.703 and 469.040 and in Oregon Administrative Rule OAR 330-063-0000. Portland's policy will refer to and incorporate the State's definitions.

Are there any proposed exemptions?

Yes. While experience in other cities suggests that we should be cautious of providing too many exemptions from the requirement, there are certain transactions for which the policy does not make sense. Equity concerns also warrant consideration.

Given that there is an upfront cost to obtain a home energy score, it is important that the policy allow relief for the most financially vulnerable sellers. Real estate and equity stakeholders have helped to identify types of title transfers that should be exempted from the policy. In addition, the Director of the Bureau of Planning and Sustainability (BPS) should have authority to waive the requirement in demonstrated cases of financial or other hardship, to be defined in rulemaking.

Exemptions will include:

- Foreclosure sales.
- Trustee's sales.
- Deed-in-lieu of foreclosure sales.
- 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.
- Demonstrated examples of hardship, to be defined in rulemaking.

For Sellers of Newly Constructed Homes

Who is responsible?

- New homebuilders.

What are the requirements?

- Since many new homes sell before they're fully constructed, new homebuilders will submit only a preliminary disclosure to the City based on design documents.

How to comply?

- The builder will hire a State-certified home energy assessor to provide a preliminary disclosure, based on plans, before the home is listed for sale.

Are there any proposed exemptions?

- While there are no exemptions proposed for new construction homes, the City will offer a temporary waiver for homebuilders using scoring products that are not compliant with State code for Home Energy Scoring Systems. Homebuilders currently using Energy Performance Scores (EPS) or Home Energy Rating System (HERS), will be allowed to temporarily continue the use of these products.

For Landlords of Single-family Rental Homes

Detached homes or side-by-side townhomes

Rising rents and low vacancy rates in Portland's rental market have increased risks for low- and moderate-income tenants; therefore, the City intends to proceed with caution for this segment of the market. Advocates for housing affordability have expressed concerns about landlords passing on the costs of energy assessments to tenants, potentially exacerbating problems

with rising rates of eviction and displacement. However, equity advocates also recognize the benefits energy efficiency delivers to tenants and low-income homeowners by reducing the amount they pay each month in energy bills, improving indoor air quality and reducing street noise. Energy-efficient homes are quieter, healthier and more comfortable. Energy efficiency remains a highly cost-effective strategy to keep housing affordable and durable over the long-term.

BPS will work with stakeholders to better understand the dynamics in the single-family rental market and establish metrics and targets to monitor over time. Example metrics include rental housing supply and housing affordability. Timing also would be considered in conjunction with other housing affordability policies.

The City may ask Council to establish a community-based oversight committee to work with BPS on developing this aspect of the policy over a specific period of time. This approach has delivered positive outcomes on other BPS projects.

Frequently Asked Questions

Q Why is the City pursuing this now?

A The energy efficiency industry has developed scores and labels for building energy performance, but their use has not been widespread. Requiring home energy scores is one of the policy tools the City has available to catalyze change in the residential sector.

In 2010, the City established Clean Energy Works, now known as Enhabit, to provide access to low-cost financing for energy upgrades. Stakeholders considered this an important prerequisite to an energy scoring policy. Enhabit's activity in the energy upgrade financing market has resulted in local banks and credit unions offering specialized financing products for energy efficiency.

Energy Trust of Oregon, in partnership with non-profit lender Craft3, now offers a moderate income energy upgrade financing program. There are also new specialized energy efficiency mortgage products available exclusively to buyers of homes that have a U.S. Department of Energy Home Energy Score.

In addition, until a few years ago, the housing market was severely affected by the Great Recession. Recognizing this, the City directed initial policy efforts at the commercial market. Now that the housing market has bounced back and commercial disclosure is in effect, it is time to address the residential market.

Q What other cities have passed similar policies?

A Several U.S. cities have passed similar disclosure policies for the homes market, including Austin, Texas; Berkeley, California; Santa Fe, New Mexico; and Boulder, Colorado. Internationally, residential disclosure policies are in effect in the United Kingdom, Denmark and Australia.

Q Does this policy affect housing affordability?

A In today's market, it costs between $150-$250 to obtain a home energy performance report. The policy does not require upgrades. According to Home Mortgage Disclosure Act data for Multnomah County, the majority of people transacting in the real estate market – almost 80 percent – are not low income. In many instances, these buyers are paying a premium for Portland homes. The modest cost of acquiring the score will be a very small line item in the total transaction. The City is working on solutions to cover the cost of the home energy report for low income-qualified sellers.

An information policy requirement like home energy scoring will not constrain the supply of affordable housing. Housing affordability is primarily a function of supply and demand. The City currently faces a shortage of housing

options, especially affordable housing, and is helping to increase supply through zoning and direct investment in affordable housing. The requirement, however, will help those buyers understand the full costs of home ownership, including energy costs.

Q Does this policy harm vulnerable people, like elders on fixed incomes, who may need to sell a home they have lived in for decades?

A Long-time owners in Portland have benefited significantly from the market's overall appreciation. Between 2011 and 2016, the median home sale price increased by 51 percent to $354,500. The cost of getting a home energy score is low ($150-$250). The cost of doing an upgrade to increase the total value and selling price of the home, as well as giving the home a better home energy score, ranges from $5,000-$15,000 on average.

The policy will begin to help the market more correctly value homes by clearly recognizing energy costs as a component of the cost of owning a home. In a down market, homes that have below-average home energy scores may not compare as favorably to similar homes that have better energy scores. Oregon fortunately has a robust set of service offerings and financial incentives aimed at assisting low-income sellers and homeowners with upgrading their homes for energy efficiency. The City of Portland has strong relationships with these service providers and will continue to assist Portlanders in accessing these resources.

Q Won't the market take care of this on its own, like radon tests and sewer scopes?

A **No.** Experience with voluntary home energy scores over the last eight years demonstrates that while uptake is growing slowly, it is also incremental. The pace of adoption is not rapid enough to match the need to reduce carbon emissions that result from heating and powering our homes. Energy efficiency remains the most cost-effective way to reduce carbon emissions from homes and other buildings. But consumers are still largely in the dark when it comes to understanding energy use in their homes. Home energy scores correct a market failure and provide consumer protection; a home energy score is an effective tool to make energy use in homes more visible, tangible and understandable to consumers. It is an appropriate role for local government to help correct for gaps in information that make markets function better and produce outcomes that benefit consumers and the common good at the same time.

Q Will this policy help Portland to reduce carbon emissions?

A **Yes.** The City of Austin passed an energy audit report disclosure requirement in 2009. The City found that from 2009 to 2011, about 6 percent of homes undertook home energy retrofits as a result of disclosure. To accelerate consumer action in favor of energy upgrades, the City of Austin moved the time of disclosure earlier in the transaction to better inform consumer decision-making. Berkeley also moved its disclosure requirement earlier in the sale process for a similar reason. Portland has learned lessons from the experience in Austin and Berkeley and is thus specifically requiring disclosure at time of listing to maximize the positive benefits of the policy.

In the commercial buildings sector, a number of jurisdictions have passed disclosure or benchmarking policies. Commercial disclosure requirements work under the same principle as residential; by providing access to information, commercial building owners and managers can make more informed choices about how to manage energy use. Results from New York City's program showed a 6 percent energy savings from 2010 to 2013, and San Francisco's program showed an 8 percent reduction in energy use between 2010 and 2014.

OPower, a customer engagement and energy efficiency technology company, applies behavioral science to motivate changes in energy use. OPower provides utility customers with information about their energy use in context to their neighbor's energy use, similar to the type of comparison provided by the US DOE Home Energy Score. Evaluations of OPower's business model have demonstrated reliable and persistent energy savings in the range of 1.5-2.5 percent, simply by providing consumers with information on energy use in comparison to their neighbors.

Q What is a "home energy performance report"?

A A home energy performance report is defined in Oregon Revised Statutes 469.703 and 469.040 and in Oregon Administrative Rule OAR 330-063-0000, and includes the following information:

- A score and an explanation of the score.
- An estimate of the total annual energy used in the home, by fuel type.
- An estimate of the total monthly or annual cost of energy purchased for use in the home, in dollars, by fuel type.
- The current average annual utility retail energy price, by fuel type.

Q How will the City enforce this policy?

A The City will spot-check a variety of listing services, including RMLS, Craigslist, and home sales apps like Zillow, Trulia and Redfin. We will cross-reference this information with the City's public database of disclosed scores and County Assessor records.

The City does not intend to start with penalties for non-compliance. However, the City intends to monitor and evaluate the policy's performance at intervals that will likely be established in rulemaking. If evaluation suggests widespread lack of compliance, penalties may be imposed.

Q Is the City proposing any exemptions to the policy?

A **Yes.** Exemptions will include:

- Foreclosure sales.
- Trustee's sales.
- Deed-in-lieu of foreclosure sales.
- 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.
- Demonstrated examples of financial or other hardship, to be defined in rulemaking.

Transactions that do not result in a home being placed publicly on the market for sale, like an inheritance, are not affected by this proposed requirement.

Q When will the policy take effect?

A The dates will be determined through the legislative and rulemaking processes. The City intends to start with existing homes and new construction. Requirements for owners of single-family rental units will be phased in over time, in recognition of unstable and risky conditions for low- and moderate-income tenants in Portland's current rental market.

Q Would the policy apply to accessory dwelling units (ADUs)?

A ADUs that are part of the primary residence will automatically be captured in the home performance energy assessment, which is based on all the rooms within the outer envelope of the home. Detached ADUs will not be covered by the policy.

Q In what geographic area would the policy apply?

A The policy would apply to all single-family homes sold within Portland city limits.

Q Where will the information be published or disseminated?

A The City of Portland will receive the home energy performance report from the seller and will make the information available to the general public through PortlandMaps.com.

Q How much does it cost to obtain a home energy performance report?

A As of July 2016, the market rate cost to obtain a home energy performance report is between $150-$250. This is the cost of having a trained, certified home energy assessor conduct a 45-minute, in-home assessment and generate the report based on the data gathered from the home visit. The information obtained through a home energy assessment goes beyond a typical home inspection, including a review of the home's mechanical systems, insulation, air sealing and opportunities for cost-effective energy efficiency upgrades.

Experience from Austin, Texas suggests that as the volume of home energy assessments increases, the retail cost of the assessment declines. The cost of a home energy performance assessment in Austin is currently stable at $125.

Q What software tools will be eligible to produce a score in Portland?

A The City will align with tools and software that are compliant with Oregon House Bill 2801, which became law in 2013 and gives authority to the Oregon Department of Energy (ODOE) to approve home energy scoring tools in Oregon. The City will provide temporary waivers to homebuilders using software tools that do not meet the Oregon standard, including new homes with Energy Trust of Oregon Energy Performance Scores (EPS) or Home Energy Rating System (HERS).

The U.S. Department of Energy's Home Energy Score tool supplies the energy data as required by HB 2801 for a home energy performance report. The report includes a score that is a number on a scale from one to ten, where ten represents a more energy-efficient home and five is the performance of the average home. This number provides an easy-to-understand reference point for the comparison of energy performance between single-family homes.

Like miles-per-gallon labels for cars, the Home Energy Score is an asset rating, which is based on how the home is built, not how the home is used. An asset rating considers the structural characteristics and large equipment in a building. Asset ratings rely on a home energy assessment, which includes an on-site inspection. Asset ratings provide the homeowner and perspective buyers with the ability to identify:

- Cost-effective energy efficiency improvements.
- Opportunities for more energy savings.
- Opportunities to improve comfort.
- Opportunities for improved indoor air quality.

Disclosure of asset ratings differs from disclosure of utility billing information. Looking at the utility bills of past occupants can be misleading, because energy usage can vary widely depending on occupant behavior, family size and other factors. Asset ratings enable different homes to be compared on an apples-to-apples basis.