



## CITY OF NORMAN, OK STAFF REPORT

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**MEETING DATE:** 06/28/2022

**REQUESTER:** Greg Clark, Development Services Manager

**PRESENTER:** Jane Hudson, Director of Planning & Community Development

**ITEM TITLE:** CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF RESOLUTION R-2122-137: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, ESTABLISHING PROCEDURES ALLOWING BUILDING PERMIT FEES CHARGED PURSUANT TO SECTION 5-105(1)(D) OF THE NORMAN CITY CODE TO BE ADJUSTED AND SATISFIED AS AN INCENTIVE FOR RESIDENTIAL HOMES ACHIEVING CERTAIN HOME ENERGY RATING SYSTEM (HERS) ENERGY RATING INDEX (ERI) SCORES, AND EXTENSION OF THE PILOT PROGRAM ESTABLISHED IN RESOLUTION R-1718-117 THROUGH JUNE 30, 2024.

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### **BACKGROUND AND HISTORY OF THE HERS/ERI PROGRAM:**

On November 16, 2017, January 25 and March 29, 2018, staff presented to City Council Community Planning and Transportation Committee (CPTC), information regarding incentive programs for incentivizing ecologically friendly (“green”) building practices to gather feedback on potential incentive areas for future program development and committee consideration. The City Council identified incentivizing optional “green building codes” as a secondary destination short-term goal (1-2 years) during the August 2017 Council retreat.

From discussion at meetings and subsequent committee direction, staff met with local builders and stakeholders to discuss potential incentives, specifically in the area of green residential construction. The committee also recommended that areas for green building incentives could more specifically begin by focusing on areas of homes utilizing Home Energy Rating System (HERS)/Energy Rating Index (ERI) for energy efficiency.

The HERS/ERI Pilot Program initially began on July 1, 2018, with the adoption of Resolution R-1718-117 in May of 2018. Council has approved three additional 6-month extensions and two one-year extensions of the HERS Program with current expiration scheduled for June 30, 2022. The last Resolution, R-2021-107, took the HERS Program through the four-year mark. The goal of the last extension was to allow an additional window of time to review the results of the program, consider and update benchmarks and allow further discussion between City staff and City Council regarding the potential implementation of a permanent program.

The pilot program provides an incentive for new single-family residential home construction through an adjustment of the building permit fee based on the final HERS/ERI index rating (or score) of the home. A percentage of the building permit fee can be charged based on the homes final score. From discussions with the City Legal Department, it appears that allowing HERS/ERI home performance to satisfy all or a portion of building permit review fees following construction of the rated home is a preferable approach to paying, rebating or reimbursing previously paid fees. The portions of the fee subject to the performance incentive are limited to purely regulatory costs; exercise of the City's discretion determining the amount of the fee ultimately imposed promotes clarity in procedure and uniformity in administration of the incentive.

The building permit fee for a single-family home is based on a fee of \$0.14/sq. ft. of the structures project area. The pilot program charges a percentage of that building permit fee (for new, single-family residential homes) based on a specified HERS/ERI score. Additional fee adjustments are included for homes achieving scores lower than the minimum HERS/ERI score determined for the adjusted fee. The current pilot program allows for a 50% building permit fee adjustment for a home achieving a HERS/ERI index rating of 51, with an additional 5% fee reduction for each point below 51. The actual monetary amount of the waiver varies based on the square footage of the structure. The permit review fee could potentially be adjusted to \$0 if the home achieved a HERS/ERI score of 41 (additional 5% per point x 10 points below 51).

## **DISCUSSION:**

### **BUILDING PERMIT FEE ADJUSTMENT PROCESS:**

The process for applying for an adjusted building permit fee begins with the applicant /builder completing a participation program application with the City.

At the time of building permit application, the participation application is completed. Potential building permit fee adjustments for the HERS/ERI score are noted on the building permit application, indicating the intent of the applicant/builder to pursue a positive HERS/ERI index rating for the home. Additional documentation of the HERS/ERI index components in the building plan potentially need to be indicated in the building plans for verification of pursuit of a HERS/ERI index score.

Homes indicating pursuit of a HERS/ERI index score of 51 or less on their building permit application are not required to initially pay the building permit fee portion of the permit. All remaining fees except the permit fee are charged when the building permit is issued.

Final building permit fee adjustments are based on the applicant/builder submitting a final HERS/ERI index score report and subsequent verification of the final HERS/ERI index score by staff. Following staff review, the final total of the building permit fee is determined, and any outstanding fees owed to the City are required to be paid prior to issuance of final Certificate of Occupancy (CO). Applicants may appeal final building permit fee determinations by staff to the Planning and Community Development Director.

## CURRENT STATISTICS AND CODE ACTIVITY:

	Enrolled 7/18 to 7/22 Benchmark of 65	Enrolled 7/22 to 5/22 Benchmark 51
Total homes permitted	1463	432
Total homes enrolled in the program	545	274
% of homes that enrolled	37%	63%
Homes completed program	384	15
Homes withdrawn from program	128	0
Homes that received full credit	158	0
Homes that received partial credit	221	1
Homes that received no credit	5	14
Still enrolled in the program	33	259
Average credit	\$323	\$309
Total credits awarded	> \$122,000.00	\$309
Homes that scored a 57 or better	258	7
Homes that scored a 47 or better	81	0

Coinciding with the time the program was set to expire in June of 2021, a technical committee was formed by the Oklahoma Uniform Building Code Commission (OUBCC) (this is the State body that adopts minimum codes for jurisdictions), which was reviewing the 2015 International Energy Conservation Code (2015 IECC). The minimum benchmark in the 2015 IECC was an ERI of 51. Recommendations made to this Council in 2021 mirrored this committee's recommendation of the 51 ERI, though ultimately, those recommendations were not accepted or adopted as the State minimum standard.

A new committee has been formed and recommended a benchmark of a 64 ERI. This recommendation was accepted by the Commission in March 2022 and is now pending approval by the Legislature/Governor. If accepted, the updated standard of a 64 ERI would become the statewide minimum as early as September 2022.

Staff now proposes continuing the HERS/ERI program but changing the benchmark to a 57 as the minimum. The 57 ERI is a notable improvement over the proposed State standard of 64. The 57 is the standard referenced in the 2018 IECC codes. Based on past program data, the standard of 57 would be obtainable although still a challenging score to achieve, but also incentivizes homebuilders to go beyond the current state minimum standard. Of all past homes that completed or withdrew from the program, 50% received a 57 or better and would qualify for partial credit and 15% received a 47 or better and would have earned the full credit of fees due.

The below chart is a visual of how the program currently works regarding the HERS/ERI scores with the 51 rating, and the recommended change in rating to 57.

Current HERS/ERI Program with the 51 benchmark		Proposed HERS/ERI Program with a 57 benchmark	
41 or less	Builder pays no permit fees	47 or less	Builder pays no permit fees
42	Pays 05% of permit fees	48	Pays 05% of permit fees
43	Pays 10% of permit fees	49	Pays 10% of permit fees
44	Pays 15% of permit fees	50	Pays 15% of permit fees
45	Pays 20% of permit fees	51	Pays 20% of permit fees
46	Pays 25% of permit fees	52	Pays 25% of permit fees
47	Pays 30% of permit fees	53	Pays 30% of permit fees
48	Pays 35% of permit fees	54	Pays 35% of permit fees
49	Pays 40% of permit fees	55	Pays 40% of permit fees
50	Pays 45% of permit fees	56	Pays 45% of permit fees
51	Pays 50% of permit fees	57	Pays 50% of permit fees

**RECOMMENDATION:**

City Staff recommends that City Council adopt Resolution R-2122-137 setting a new minimum standard of 57 ERI and otherwise reinstating the HERS/ERI Pilot Program for a further two years while additional information is gleaned regarding state ERI standards and local homebuilder ERI performance.