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ORDINANCE NO. O2026-004

AN ORDINANCE of the City Council of the City of Tumwater, Washington, adopting a Residential Energy Performance Rating and Disclosure Policy and adding a new chapter 15.22 entitled *Residential Energy Performance Rating and Disclosure* to Tumwater Municipal Code Title 15 *Buildings and Construction,* as more particularly described herein.

WHEREAS, climate change has become a crisis posing a serious threat to the survival of the earth and humanity; and

WHEREAS, in 2018 the City Council adopted Resolution No. R2018-015, agreeing to common targets to reduce communitywide greenhouse gas emissions 45 percent below 2015 levels by 2030 and 85 percent below 2015 levels by 2050 to ensure that local communities do their part to keep the global average temperature from rising more than 2 degrees Celsius above pre-industrial levels; and

WHEREAS, in 2021 the City Council adopted Resolution No. 2021-001 accepting the *Thurston Climate Mitigation Plan (2020)* as a framework to guide future action addressing local sources of greenhouse gas emissions that contribute to global climate change; and

WHEREAS, in 2021 the City Council adopted Resolution No 2021-002 declaring a climate emergency and support for mobilization of community and region wide efforts to mitigate climate change in order to provide a safe environment for future generations; 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; 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 TCMC finds that for a home energy disclosure policy to be effective at reducing emissions, incentivizing a more climate resilient housing stock, and informing prospective homebuyers, Tumwater's Code should be amended to include this requirement; and

WHEREAS, amending the code to include a home energy disclosure policy is in the best interests of city and its residents and supports the health, safety and welfare of the community.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUMWATER, STATE OF WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. A new chapter 15.22, *Residential Energy Performance Rating and Disclosure*, is hereby added to Title 15, *Buildings and Construction*, of the Tumwater Municipal Code to read as follows:

Chapter 15.22
RESIDENTIAL ENERGY PERFORMANCE RATING AND DISCLOSURE

15.22.010 Purpose.
The purpose of the 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 RCW 64.06.

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

A. "Director" means the director of the Water Resources and Sustainability Department of the city or their designee.

B. “Dwelling Unit” means a building or a portion thereof designed for occupancy by one family for residential purposes, having kitchen and bathroom facilities, and on a permanent foundation and for the purposes of this chapter may be contained in a single-family detached dwelling, duplex, triplex, quadplex, cottage housing, townhouse, and accessory dwelling unit.

C. "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.

D. "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 dwelling unit in dollars by fuel type, based on the current average annual retail residential energy price of the utility serving the dwelling unit 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 price 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.

E. "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.

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 Washington state licensed real estate broker, agent, or firm. Real estate listings include any printed advertisement, internet posting, publicly displayed sign, 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. "Seller" means any individual or entity possessing title to real property that includes a dwelling unit, including an association of unit owners responsible for overall management in the case of a condominium, or other representative body of a jointly owned building with authority to make decisions about building assessments and alterations.

I. "Subsidy criteria" means any resident of the City of Tumwater earning 150% or less than 150% of the Area Median Income as defined by the U.S. Department of Housing and Urban Development, or any household that has been deemed eligible to participate in any and all low-income federal, state, or local assistance programs.

15.22.030 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.

15.22.040 Home Energy Score Rating and Disclosure for Dwelling Units.
Prior to publicly listing any dwelling unit(s) 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 from a certified home energy score assessor;

B. Include the home energy score and the home energy performance report in all real estate listings;

C. Append the home energy performance report when attachments are accepted by the listing service; and

D. Provide a copy of the home energy performance report to all licensed real estate brokers, agents, or firms working on the seller's behalf.

15.22.050 New Construction of Dwelling Units.
At the time of first sale, sellers of a newly constructed 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. Replicate home energy performance reports for dwelling unit(s) 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.

15.22.060 Exemptions.

A. Dwelling units on federal land or tribal land shall be exempt from the requirements outlined in TMC 15.22.
B. Transfers of real property defined by RCW 64.06.010, as is in effect of the date of this ordinance and as amended, are exempt from the requirements of this chapter.

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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 dwelling unit 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 dwelling unit due to financial distress; or
3. The senior mortgage on the dwelling unit is subject to a notice of default.

15.22.070 Duration of Validity.
The home energy score is valid for ten years provided that no changes to mechanical systems, building envelope, or square footage in the home have occurred.

15.22.080 Violation.
It is a violation for any person 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. Civil enforcement of the provisions of this chapter shall be governed by TMC Chapter 1.10 Civil Enforcement of Code.

15.22.090 Subsidy.
The city shall fully subsidize home energy score assessments required by TMC 15.22.040 for sellers whose households meet the subsidy criteria as defined in TMC 15.22.020 or may exempt households that meet the subsidy criteria if no subsidy funding is available.

Section 2. Corrections. The City Clerk and codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 3. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 4. 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

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thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to other persons or circumstances.

Section 5. Effective Date. This ordinance shall become effective on May 1, 2027, after passage, approval and publication as provided by law.

ADOPTED this _____day of _____, 20___.

CITY OF TUMWATER

_____
Leatta Dahlhoff, Mayor

ATTEST:

_____
Melody Valiant, City Clerk

APPROVED AS TO FORM:

_____
Karen Kirkpatrick, City Attorney

Published:_____

Effective Date:_____

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