



CITY OF BEND

HOME ENERGY SCORE PROGRAM POLICY

Policy No. 2023-5

Bend Code Chapter 1.30.005 provides for ‘City Manager Authority to Adopt Administrative Regulations, Policies and Guidelines.’ All regulations, policies and guidelines adopted by the City Manager shall be consistent with the City of Bend Charter, the Bend Code, and council ordinances.

The following policy conforms to the above stated standards.

Authorized by City Manager:

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Eric King

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Eric King, City Manager

Dated: 4/11/2023

Reviewed by Legal Counsel:

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Mary Winters, City Attorney

Dated: 4/11/2023

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I. Purpose

The purpose of this Policy is to provide additional details and clarification regarding the implementation of the Bend Home Energy Score Program as established in Title 18, Chapter 18.10 of the Bend Municipal Code (“BMC”). This Chapter was established with the adoption of Ordinance NS–2460 on December 21, 2022.

The implementation details that this Policy covers include the following:

- Exemptions
- Covered buildings subject to this Policy
- Manufactured homes
- Newly-built identical homes
- Home listing expectations
- Enforcement approach
- Low-income assistance program
- Program review for exceeding expected price and assessor availability thresholds
- Data collection

II. Program Background

The Bend Home Energy Score Program (the “Program”) is an initiative of the Bend Community Climate Action Plan. The purpose of the Program is to provide information to homebuyers about residential building energy performance. This information is designed to enable more knowledgeable decisions about the full costs of operating homes and to motivate investments in home improvements that lower utility bills, reduce greenhouse gas emissions, and increase comfort, safety, and health for homeowners.

III. Exemptions

Homes that are exempt from the Program are defined in Chapter 18.10 of the BMC. Exempted properties include certain sale types and certain circumstances that the homeowner may be under, including the following:

- A trustee’s sale;
- A deed-in-lieu of foreclosure sale;
- Any pre-foreclosure sale in which the seller has reached an agreement with the mortgage holder to sell the property for an amount less than the amount owed on the mortgage;

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- The covered building qualifies for sale at public auction of acquisition by a public agency due to arrears for property taxes;
- A court appointed receiver is in control of the covered building due to financial distress;
- The senior mortgage on the covered building is subject to a notice of default;
- The covered building has been approved for participation in Oregon Property Tax Deferral for Disabled and Senior Citizens, or equivalent program; or
- The seller is otherwise unable to meet the obligations of the Home Energy Score Program.

Homeowners are encouraged to consult with their realtor or broker, as needed, to confirm whether their sale falls into one of these categories. If a homeowner believes their property is exempt from the Program, they are required to submit a *Home Energy Score Exemption Application* to the City, along with supportive documentation. Supportive documentation includes official written notification from a public agency, court, or financial institution which clearly indicates the correct address of the property and documents the claimed exemption. Any sensitive information, such as bank account information, social security numbers, credit card account numbers, etc, should be redacted from the supportive documentation. The application will be available on the City's website at <https://www.bendoregon.gov/city-projects/community-priorities/sustainability/energy/home-energy-score>. Paper copies will also be available for pick up at City Hall at 710 NW Wall Street, Bend. Directions regarding how to submit the application will be written on the application form.

Once an application is submitted, the home is not automatically exempt from the Program. City staff will notify homeowner of receipt of the application. Staff will review and make a determination of the exemption status within five (5) business days of application submittal.

IV. Covered Buildings Subject to the Policy

BMC Chapter 18.10 clearly defines buildings that are covered by the program as any residential structure containing a single dwelling unit or manufactured dwelling, regardless of size, on its own lot or parcel, or any attached single dwelling unit, regardless of whether it is located on its own parcel, where each unit extends from foundation to roof, such as an attached accessory dwelling unit (ADU), duplex, triplex, quadplex, or townhouse. Covered buildings do NOT include detached ADUs, stacked condominiums or dwelling units where the unit does not extend from foundation to roof (ADUs can be stacked), or single dwelling units used solely for commercial purposes.

The reason that the Program does not apply to certain dwelling types is due to the United States Department of Energy (US DOE) scoring tool having limitations of being able to calculate scores for those building types. It is possible that over time, some additional building types will be integrated into the tool. If so, the City may initiate an

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amendment to the BMC to update the definition of “Covered Buildings” in the Code and this Policy.

Generally speaking, “Covered Buildings” indicates that all single-family residential homes are subject to this Policy. Multi-unit dwellings are subject to this Policy if each unit extends from foundation to roof, such as duplexes, triplexes, townhomes, etc., that have shared walls and are not stacked. Multi-unit dwellings that are stacked (meaning a unit on top of another unit, as opposed to side by side) are **not** subject to this Policy.

Of the multi-unit dwellings that are subject to this Policy, homeowners are expected to receive a Home Energy Score (“HES”) for each unit that is being sold. This means that if an entire duplex is being sold, two HES reports are required. Individual reports are required for each unit, as the units may have different mechanical systems or other components that impact their score. If a homeowner is unsure what kind of dwelling type their home is, they may use the Permit Lookup Tool in the City’s [Data Explorer](#) to find details about their dwelling type on building permits. If a homeowner is having difficulty identifying their dwelling type this way, they may email the City’s HES email address (homeenergyscore@bendoregon.gov) and City staff can help them identify it. Additionally, sellers may want to consult an assessor who will be able to determine how to use the HES scoring tool appropriately for their property.

A. Manufactured Homes

At the time of this Policy, the City will exercise its enforcement discretion to not enforce the HES requirement for manufactured dwellings, as the scoring tool does not have the capability of scoring a manufactured home at present. However, an update to the tool is expected by the US DOE in Q2 or Q3 of 2023 to be applicable to manufactured dwellings. Manufactured dwellings are included in the definition of a “Covered Building” in the current code. Once the update to the tool occurs, the City may update this Policy to indicate that manufactured homes will be included in the HES Program and subject to the requirements.

B. Newly-Built Identical Homes

Chapter 18.10 of BMC states that “a single home energy performance report may be obtained and replicated for covered buildings constructed during the same time period and within the same land division. The dwelling units 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.”

To clarify expectations around scoring for identical homes, each identical home must obtain its own unique HES report. Using the new construction scoring pathway, in which new construction can obtain a score pre-construction for a home by using construction plan sets, each identical home should be able to obtain a unique home energy score quickly and at a lower cost if scores for multiple identical homes are received at the

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same time, as the assessor would only need to update the details that are unique to each home. If the homes are identical, the unique details would be limited to a few parameters, such as site address and building orientation.

Individual assessors will have discretion to determine how they will offer this service and what they will charge for this type of assessment. Homeowners and builders interested in these types of assessments should consult with an assessor for more information.

V. Home Listing Expectations

The Program requires that the HES must be included in all real estate listings, and that the Home Energy Performance report must be attached if accepted by the listing service. The listings that must include the HES include real estate website listings, such as Zillow and Redfin (these are examples, not an exclusive list), and on paper flyers located on physical real estate signs or in real estate offices, at open houses, or other physical locations. HES are not expected on print magazine and newspaper advertisements for homes or on embedded listings on websites that pull information from 3rd party sites that the homeowner or its agents do not have direct control over.

VI. Enforcement Approach

The Program will be enforced through proactive enforcement, as staffing allows, by reviewing public real estate listings regularly to ensure compliance. If the City finds a home out of compliance, the homeowner(s) will receive a notice of non-compliance and have a fifteen (15) day grace period to come into compliance. The initial notification will provide information and resources to the seller to help them come into compliance. It will be educational, rather than punitive, in tone. The staff person will also work with the homeowner(s), or their designee, to answer any additional questions or provide more resources as needed to come into compliance. Staff will notify the homeowner by mailing a letter, and will also attempt to notify the homeowner by email and phone call, if they are able to find that information. Sellers may designate an alternate person for the City to work with by sending an email to the City's home energy score e-mail address, homeenergyscore@bendoregon.gov.

If a homeowner does not come into compliance within the grace period, the violation will be reported to City of Bend Code Enforcement and treated as a code violation, and subject to penalties and fees as determined by the code violation process. As provided in BMC Chapter 18.10, the fifteen (15) day grace period will begin three (3) days after mailing of the notice, and seven (7) days after mailing outside the state of Oregon.

VII. Low Income Assistance Program

The City created a partnership with NeighborImpact to administer the low-income assistance program. The low-income assistance program will be available to homeowners who have an income level of 80% AMI or below, subject to the approved City budget. The program makes the HES available to eligible participants at no cost,

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which will be conducted by NeighborImpact staff. Homeowners interested in taking advantage of this program will need to contact NeighborImpact and submit an application directly to them. This Policy will be updated with program contact information and a link to the program webpage once available.

VIII. Program Review

The City is committed to monitoring the Program to ensure that the cost of a HES is not excessively burdensome for homeowners and that homeowners are able to obtain a HES within a reasonable time period. In other markets in Oregon, homeowners are able to obtain a HES for a cost of \$150-300 dollars and within a few days to one week. The City expects the market in Bend to be similar, though the cost will range with the size and complexity of a home. As the City is monitoring cost and timeliness of HES in Bend, staff will recommend that the program be re-evaluated if those indicators exceed certain thresholds. The thresholds that staff will be monitoring for are:

- Costs of scores are \$0.20/sq ft or above, on average
- Home energy assessments can be scheduled within ten (10) days of contacting an assessor, on average

If either of these thresholds is exceeded, staff will evaluate the cause and identify strategies to mitigate against it. For example, if staff find that home energy assessments are regularly costing \$0.22/sq. ft, staff will investigate what is driving the score cost and discuss options with contractors for lowering costs, such as subsidizing the fee that they pay to Earth Advantage. If a mitigating strategy can be identified, staff will recommend these strategies to the City Council and the Council would determine how to proceed.

IX. Data Collection and Use

There are several platforms across the nation that host energy scores, and the Pacific Northwest is served by the [Green Building Registry](#), which is owned and operated by Earth Advantage. Once a HES assessment is completed by a licensed home energy assessor, the score gets uploaded to the Green Building Registry automatically. The registry is publicly accessible and any address can be searched to access its HES. It can be used in partnership with the local Multiple Listing Service (MLS) to populate real estate listings on the MLS with the required HES information, if the MLS administrator allows it to do so. The City will access HES data through this database and intends to use the data primarily to enforce this Policy. Secondly, the City may periodically analyze the data broadly to monitor the Program effectiveness, identify trends, and target energy efficiency programs more efficiently.