

ORDINANCE NO. ORD-23-26

First Reading: August 21, 2023
Public Hearing: September 5, 2023

Approved: September 5, 2023
Published: September 14, 2023
Effective: March 12, 2024

CHAPTER 102

(HOME ENERGY RATING DISCLOSURE)

AN ORDINANCE TO ADD CHAPTER 102 (HOME ENERGY RATING DISCLOSURE)
TO TITLE VIII (BUILDING REGULATIONS) OF THE CODE OF THE CITY OF ANN
ARBOR

The City of Ann Arbor ordains:

Section 1. That Chapter 102 (Home Energy Rating Disclosure) of Title VIII of the Code of the City of Ann Arbor be added as follows:

8:391. – Legislative Purpose.

The purpose of this Chapter is to require Sellers of certain residential Dwellings to provide information to buyers about residential building energy performance. This information will enable more knowledgeable decisions about the full costs of operating Dwellings prior to purchase and to motivate investments in home improvements that increase the health, safety, and welfare of occupants and lower utility bills, reduce carbon emissions, and increase comfort. This Chapter shall be known as the Home Energy Rating Disclosure.

8:392. – Definitions.

The following shall apply in the interpretation and enforcement of this Chapter:

(1) *Accessory Dwelling Unit*: a dwelling unit for not more than one family which is an integral part of a Single-Family dwelling or is included in a detached accessory building, and that meets all of the requirements of Section 5.16.6D of the Unified Development Code (UDC). The dwelling includes one or more rooms with kitchen and sanitary facilities defined as a unit for occupancy by Single-Family, independent of the Principal Building.

(2) *Approved Alternative Energy Score*: an alternative energy score program approved by the Director and outlined in the Home Energy Rating Disclosure regulations.

(3) *Director*: the Director of the Office of Sustainability and Innovations or their designee.

(4) *Dwelling*: any building which is wholly or partly used or is intended to be used as a habitable space by human occupant(s).

(5) *Home Energy Assessor*: a person who is a Home Energy Score Certified Assessor by the United States Department of Energy (“DOE”) Home Energy Score system or a person who is trained in an Approved Alternative Energy Score and maintains their applicable certification.

(6) *Home Energy Score Report*: the report prepared by a Home Energy Assessor in compliance with the DOE Home Energy Score Standard or an Approved Alternative Energy Score assessment.

(7) *Home Energy Score*: the DOE Home Energy Score Asset Rating or Approved Alternative Energy Score that is based on physical inspection of the Dwelling or design documents used for the Dwelling’s construction and completed by a Home Energy Assessor.

(8) *Public Listing*: listing real property for sale on the real estate market whether by printed advertisement, internet posting, or through a private database intended for use by real estate licensees or buyers with the purpose to identify and compare real properties for purchase.

(9) *Real Estate Listing*: a listing of real property for sale in the City of Ann Arbor either by a listing agreement between a Seller of real property and a real estate broker or principal real estate broker, or by an individual property owner when they are advertising their home for sale without a real estate license. This includes listings by printed advertisement, internet posting, or through a Listing Service.

(10) *Sale*: a conveyance of title to real property.

(11) *Seller*: any individual or entity possessing title to real property and is seeking to sell the property or the association of unit owners or other representative body responsible for management of a condominium with authority that has authorized the listing of real property.

(12) *Listing Service*: a database tool established and used by cooperating real estate professionals to provide and share data about properties for sale.

8:393. – Home Energy Rating Disclosure Regulations.

The Director may adopt regulations implementing this Chapter. Those regulations shall take effect 30 days after being filed with the City Clerk unless modified or disapproved by the City Council.

8:394. – Applicability of Seller Home Energy Rating Disclosure Requirements.

The seller disclosure requirements of Section 396 apply to the transfer of any interest in real estate of any residential Dwelling.

8:395 – Exceptions to Seller Home Energy Rating Disclosure Requirements.

The seller disclosure requirements of Section 396 do not apply to the following:

- (1) Multiple Dwelling units that are stacked vertically, such as an apartment or other multifamily structure;
- (2) Detached Accessory Dwelling Units;
- (3) Manufactured housing or mobile homes;
- (4) Commercial buildings; and
- (5) Any of the transfer listed in Section 3 of the Seller Disclosure Act, MCL 565.953.

8:396. – Seller Home Energy Rating Disclosure Requirements.

(1) Prior to Publicly Listing any real property described in Section 394 for Sale, the Seller shall:

- (a) Obtain a Home Energy Score Report from a Home Energy Assessor;
- (b) Provide a copy of the Home Energy Score Report to:

1. All licensed real estate agents working on the Seller's behalf;
2. All prospective buyers who visit the home while it is Publicly Listed for sale; and
3. The Director;

(c) Include the Home Energy Score and the Home Energy Score Report in at least one Real Estate Listing for such real property. The Seller shall provide the Director the location of the Real Estate Listing that contains the Home Energy Score and the Home Energy Score Report.

(2) At the time of Sale, the Seller shall provide the buyer(s) the Home Energy Score Report.

(3) Each Home Energy Score Report required in subsections (1) and (2) above must include the following:

- (a) The date the report was supplied to the Seller;
- (b) A DOE Home Energy Score and an explanation of the score or an Approved Alternative Energy Score;
- (c) An estimate of the total annual energy generated by on-site solar electric, wind electric, hydroelectric, geothermal, and solar water heating systems;

- (d) An estimate of the total annual energy used in the Dwelling in retail units of energy, by fuel type;
- (e) An estimate of the total monthly or annual cost of energy purchased for use in the Dwelling in dollars, by fuel type, based on the current average annual retail residential energy price serving the dwelling at the time of the report and the average annual energy prices of non-regulated fuels, by fuel type, as provided by the Energy Information Administration or State of Michigan, as available;
- (f) The current average annual utility retail residential energy price in dollars, by fuel type, and the average annual energy prices of non-regulated fuels, by fuel type, provided by Energy Information Administration and used to determine the costs described in this Section;
- (g) At least one comparison Home Energy Score that provides context for the range of possible scores. Examples of comparison include, but are not limited to, a similar Dwelling with Ann Arbor's average energy consumption, the same Dwelling built to current Michigan energy code applicable to new construction, and the same Dwelling with certain energy efficiency updates;
- (h) The name and contact information for the entity that assigned the Home Energy Score or Approved Alternative Energy Score;
- (i) The date the Home Energy Assessment was performed;
- (j) The expiration date for the Home Energy Score Report;
- (k) The address, year built, and heated square footage of the Dwelling;
and
- (l) An estimate of the Dwelling's greenhouse gas emissions based on the Home Energy Score or Approved Alternative Energy Score estimate of the Dwelling's energy use, fuel types, and utility and fuel specific emission factors.

(4) A Home Energy Assessor may enter real property or a Dwelling only with the consent of the Seller or occupant. Where a Seller or occupant demands a warrant for entry of a Home Energy Assessor, the Director shall obtain a warrant from a court of competent jurisdiction prior to entry.

8:397. – Waiver From Home Energy Rating Disclosure Requirements.

(1) A Seller may request a waiver from the seller disclosure requirements of Section 396 in writing. The Seller shall submit to the Director any documentation reasonably necessary to substantiate the request or otherwise assist the Director

in the waiver determination. Any waiver granted will be limited to the Sale for which the request was made and does not extend to past or future Sales.

(2) The Director may, in their sole discretion, waive the seller disclosure requirements if they determine that a Seller cannot meet them because a Home Energy Score Report is not applicable to the Dwelling or compliance with the requirements are otherwise not feasible for the Dwelling. The Director shall review and decide each waiver request within 14 days of receipt.

(3) A decision on a waiver request may be appealed to the City Administrator by submitting a written appeal to the Director along with any supporting documentation within 14 days from the date of the decision.

8:398. – Maintenance of Records.

The Director shall maintain all records submitted in compliance with this Chapter for a period of five (5) years.

8:399. – Penalties.

(1) Prior to the time of sale, the City shall not impose any penalty for a Seller's failure to comply with this Chapter. The penalties in subsection (2) below do not begin to apply until a Seller is not in compliance with this Chapter at the time of sale.

(2) A violation of any provision of this Chapter is a civil infraction punishable by a fine of not more than \$500.00 for a first offense, and not more than \$1,000.00 for each additional or subsequent offense, plus the costs of prosecution including court costs. Each act or violation shall constitute a separate offense. Violations of this Chapter shall be enforced by Building and Rental Services Unit Employees. Development Services Inspectors are eligible to enforce. The court may issue and enforce any judgment, writ, or order necessary to enforce this Chapter.

(3) Knowingly submitting a false Home Energy Score Report or submitting it with reckless disregard for the truth and accuracy of it is a civil infraction punishable by a fine of not more than \$500.00 plus the costs of prosecution, including court costs.

(4) The remedies set forth in this Section are not exclusive. In addition to any remedies provided in this Section, the City may also seek equitable or other remedies.

Section 2. Effective Date. This ordinance shall take effect on and after 180 days from publication thereof. Enforcement for non-compliance will not commence until 180 days after the Effective Date.

As Amended and Approved at First Reading by Ann Arbor City Council on August 21, 2023

*The ordinance chapter was administratively corrected from Chapter 106 to Chapter 102 on October 31, 2023 to reflect the appropriate placing in Title VIII of the City Code.

CERTIFICATION

I hereby certify that the foregoing ordinance was adopted by the Council of the City of Ann Arbor, Michigan, at its regular session of September 5, 2023.

(Date)

Jacqueline Beaudry, Ann Arbor City Clerk

Christopher Taylor, Mayor of the City of Ann Arbor

I hereby certify that the foregoing ordinance received legal publication on the City Clerk's webpage on September 14, 2023.

Jacqueline Beaudry, Ann Arbor City Clerk