

Montpelier Energy Disclosure Working Group

Montpelier High School

5 High School Drive

December 9, 2019

Agenda (draft)

1. Approval of 11/11/19 meeting minutes
2. Updates
 - a. Vermont Building Energy Labeling Working Group meeting update
 - i. Approval of Energy Estimator approach?
 - b. NEREN MLS data fields
 - c. VSECU (Simeon Chapin) carbon accounting efforts
3. Energy Estimator Beta Testing
4. Ordinance Language Review
5. Implementation Guide Language Review
6. Engaging City Manager and City Staff
7. Ordinance review and approval process
 - a. MEAC
 - b. City Council
 - c. Schedule and timing
8. Next meeting

Montpelier Energy Disclosure Ordinance

Draft 12/8/19

1. **Authority of City Manager to Adopt Rules.** The City Manager is authorized to administer and enforce provisions of this Chapter.
 - a. The City Manager is authorized to adopt administrative rules, procedures, and forms to implement the provisions of this Chapter by following all rules that normally apply.
 - b. The City Manager may temporarily suspend or modify the requirements of this Chapter based on a determination that such requirements are temporarily infeasible due to system-wide (i.e., beyond individual cases) economic or technical or unique circumstances. ~~The City Manager's determination to temporarily suspend or modify shall be filed as a report with the City Council~~ shall be notified of the City Manager's actions within three business days. The City Manager's determination shall be effective after the Council has accepted the report.
 - c. The City Manager may expand the scope of this Chapter to include additional buildings by going through the normal administrative process, after following required regulatory processes for public input and approval.
2. **Vermont Home Energy Profile Disclosure for ~~Covered~~Applicable^[RF1] Buildings.** Prior to publicly listing any ~~covered~~applicable building for sale, the seller of a ~~covered~~applicable building, or the seller's designated representative, shall:
 - a. Obtain a Vermont Home Energy Profile report of such building, and;
 - b. Provide a copy of the Vermont Home Energy Profile report:
 - i. To all licensed real estate agents working on the seller's behalf; ~~and~~
 - ii. To prospective buyers who visit the home while it is listed publicly for sale; and
 - ~~ii-iii.~~ To the buyer at closing.
 - c. Include the Expected Annual Energy Cost in all real estate listings and attach the Vermont Home Energy Profile report if attachments are accepted by the listing service.
 - d. Attest to having provided the Vermont Home Energy Profile to the buyer by having both parties sign a document at closing evidencing the disclosure and attaching a copy of the Vermont Home Energy Profile.^[RF2]
3. **Exemptions and Waivers.**
 - a. The City Manager may exempt a seller from the requirements of this Chapter if the seller submits documentation that the ~~covered~~applicable building will be sold through of any of the following:
 - i. A foreclosure sale,
 - ii. A trustee's sale,
 - iii. A deed-in-lieu of foreclosure sale, or
 - iv. Any 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.

- b. The City Manager 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:
 - i. The ~~covered~~applicable building qualifies for sale at public auction or acquisition by a public agency due to arrears for property taxes,
 - ii. A court appointed receiver is in control of the ~~covered~~applicable building due to financial distress,
 - iii. The senior mortgage on the ~~covered~~applicable building is subject to a notice of default, or
 - iv. The responsible party is otherwise unable to meet the obligations of this Chapter as determined by the City Manager.

4. Enforcement and Penalties.

- a. It shall be a violation of this Chapter for any person to fail to comply with the requirements of this section or to misrepresent any material fact in a document required to be prepared or disclosed by this Chapter.
- b. Any building owner or person who fails, omits, neglects, or refuses to comply with the provisions of this Chapter shall be subject to^[RF3]:
 - i. Upon the first violation, the City Manager may issue a written warning notice to the entity or person, describing the violation and steps required to comply.
 - ii. If the violation is not remedied within 30 days after issue of written warning notice, the City Manager may assess a civil penalty of up to 0.25% (0.0025) of the home listing price.
 - iii. For every subsequent 90-day period during which the violation continues, the City Manager may assess additional civil penalties of up to 0.25% of the home listing price.
 - ~~iv.~~ iv. If the home sells faster than the initial 30-day period, then the seller is still obligated to provide the Vermont Home Energy Profile to the buyer or be subject to the penalty of up to 0.25% (0.0025) of the home listing price.
 - ~~iv-v.~~ For violations after the first, the City Manager may assess a civil penalty of up to 0.25% (0.0025) of the home listing price within 30 days of listing or by the time of closing.

5. Right of Appeal and Payment of Assessments.

After being issued a written warning notice of a first violation, any person receiving a subsequent notice of violation shall, within 10 days of issuance of the notice, either pay to the City the stated amount of the assessment or request an appeal hearing by the Code Hearings Officer^[RF4] in accordance with procedures set forth in Chapter **XXX** of the City Code. The filing of an appeal request shall stay the effective date of the assessment until the appeal is determined by the **Code Hearings Officer**. If, pursuant to said appeal hearing, payment of the assessment is ordered, such payment must be received by the City Manager or postmarked within 15 calendar days after the order becomes final.

6. Reporting

- a. City Manager or designee shall be responsible for regular data collection and reporting.

- b. An annual report shall be provided to the City Council at the first meeting in March to report on the previous calendar year.

7. Definitions^[RF5]

- a. **“Applicable Buildings”**^[RF6] means any detached or attached residential structure. “Applicable building” also does not include single dwelling units used solely for commercial purposes. Primary use of the building determines whether the building is considered “residential”, “commercial” or other.
- b. **“Asset Rating”** is a calculated building rating based on “standard” or “typical” weather, occupancy and thermostat set-points. It is useful when looking at an existing building with changing occupants or new construction before being occupied.
- c. **“City Manager”** means the Montpelier City Manager or his or her authorized representative, designee, staff or agent.
- d. **“Energy”** means electricity, natural gas, propane, steam, heating oil, wood or other product sold for use in a building, or renewable on-site electricity generation, for purposes of providing heating, cooling, lighting, water heating, or for powering or fueling other end-uses in the building and related facilities.
- e. **“Expected Annual Energy Cost”** means the asset-based total annual energy costs for space heating and cooling, hot water, lights and appliances--less any renewably-generated energy--that is produced by a State-approved energy rating/labeling system and presented in the Vermont Home Energy Profile.
- f. **“Listed publicly for sale”** means listing the applicable building for sale by printed advertisement, internet posting, or publicly displayed sign.
- g. **“Listing Price”** means the publicly listed dwelling sales price.
- h. **“Real estate listings”** means any public real estate listing of homes for sale in the City of Montpelier, including listing a home for sale by a property owner or by a licensed real estate agent. “Real estate listings” include any internet posting, open houses, including but not limited to the regional Multiple Listing Service provided by the New England Real Estate Network (NEREN), Picket Fence Preview, other “for sale by owner” sites, Redfin, Zillow, Trulia and other third-party listing services. “Real estate listings” are required to include the Vermont Home Energy Profile and Estimated Annual Energy Cost.
- i. **“Sale”** means the conveyance of title to real property as a result of the execution of area property sales contract. “Sale” does not include transfer of title pursuant to inheritance, involuntary transfer of title resulting from default on an obligation secured by real property, change of title pursuant to marriage or divorce, condemnation, or any other involuntary change of title affected by operation of law.
- j. **“Seller”** means any of the following:
 - i. Any individual or entity possessing title to a property that includes a applicable building, or
 - ii. The association of unit owners responsible for overall management in the case of a condominium or other representative body of the jointly-owned building with authority to make decisions about building assessments and alterations.
- k. **“Vermont Home Energy Profile”** means an asset-based home energy rating report prepared in compliance with standards developed by the Vermont Department of Public Service.