

**CITY COUNCIL CONFERENCE**  
**MUNICIPAL BUILDING CONFERENCE ROOM**  
**201 WEST GRAY, NORMAN, OK**

**JUNE 8, 2021**

**5:30 P.M.**

- 1. DISCUSSION REGARDING ESTABLISHING A VISITABILITY PILOT PROGRAM FOR NEW CONSTRUCTION OF ONE AND TWO FAMILY DWELLINGS AND TOWNHOUSES WITH LESS THAN FOUR UNITS.**
  
- 2. DISCUSSION REGARDING 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.**

It is the policy of the City of Norman that no person or groups of persons shall on the grounds of race, color, religion, ancestry, national origin, age, place of birth, sex, sexual orientation, gender identity or expression, familial status, marital status, including marriage to a person of the same sex, disability, retaliation, or genetic information, be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination in employment activities or in all programs, services, or activities administered by the City, its recipients, sub-recipients, and contractors. In the event of any comments, complaints, modifications, accommodations, alternative formats, and auxiliary aids and services regarding accessibility or inclusion, please contact the ADA Technician at 405-366-5424, Relay Service: 711. To better serve you, five (5) business days' advance notice is preferred.

# City Council Study Session

Visitability Pilot Program

6/8/2021



# Visitability and Accessibility

- Visitable Dwelling: Offers a few specific features making a home easier for mobility-impaired people to live in and visit. ([visitability.org](http://visitability.org))
- Accessible Building: The intent of these sections is to allow a person with a physical disability to independently get to, enter, and use a site, facility, building, or element. (Section 101, ICC A117.1-2009)



# Visitability v. Accessibility

Visitable Dwelling Unit	Accessible Dwelling Unit
No step entry and compliant entry path required.	No step entry and compliant entry path required.
Routes to be 36" wide typically Doors to be 31.75" in the clear wide.	Routes to be 36" wide typically Doors to be 31.75" in the clear wide.
Bathroom: Toilet/Sink with backing and clearances at the toilet required.	Bathroom: Toilet/sink/bathing with backing installed and proper clearances for all of them.
Kitchen: Which includes a sink, cooking appliance, and refrigerator to have a path to these areas typically 40" wide.	Kitchen: Has proper widths, reach ranges, counter heights, with clear spaces for the sink and all appliances.
A living room or similar is to be on a compliant route that is at least 70 sqft in area.	All the living space on the accessible floor level has to be compliant including sleeping rooms, laundry rooms, game rooms and similar.
Receptacle outlets and lighting controls to be installed between 15" and 48" typically.	Outlets, lighting controls, switches, environmental controls, electrical panel boards, security controls and similar to be installed at a compliant height and reach distance.

As defined by the ICC ANSI 117.1-2009



# History of the Norman Visitability Code

January through April 2019: The Citizen Ad Hoc Committee for Accessible Housing met, discussed and drafted the Norman Visitability Code.

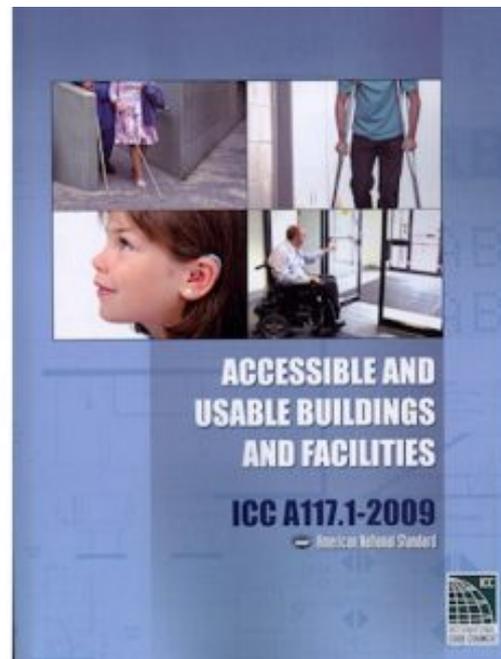
May 2019: At the CPT meeting the Ad Hoc Committee presented the Norman Visitability Code, draft document for consideration to staff and members with request that the document be compared to the current building codes and practices, as well as other visitability codes.

The document was to be discussed during the annual City Council retreat.



# Current Visitability Codes

- ICC A117.1-2009 is the current standard for Accessibility for the International Building Code (IBC) and has been for some time.
- The IBC/ICC A117.1-2009 is adopted by the State of Oklahoma as the minimum standard for all municipalities.
- ICC A117.1-2009 is updated every 6 years at the national level. The Oklahoma Uniform Building Code Commission (OUBCC) updates the Building Codes statewide at their discretion but generally every 3 years.
- The 2009 version of the ICC A117.1-2009 Standard included a new section Type C VISIBLE Units.
- In the ICC A117.1-2009 Standard there are requirements for commercial buildings but they also have standards for Accessible Dwelling Units.



# Staff Recommendation

Staff recommends that an incentive based pilot program be initiated referencing the ICC A117.1-2009 Standard, specifically Section 1005, Type C (Visitable) Units.

This ICC A117.1-2009 is an existing proven standard. It works in conjunction with the currently adopted building codes. Unlike an organically written code it is unlikely to create conflicts, have omissions, or be silent on details and scenarios. The standard is updated regularly and reflects changes in other codes and so maintaining it over time is simplified. With the standard having both Visitable and Accessible Standards, if in the future it was desired to expand the scope to accessibility there would already be companion language to utilize.

# Staff Recommendation (continued)

Staff also recommends the Pilot Program be initiated for two years. Staff's experience with another incentive based program is that the longer duration will help create a larger data pool, allow time for builders to become educated about the incentive program and the details it would take to comply with the code.

The proposed source of the credit would be the Building Permit fee which is .14 cents per square foot of project area (all areas under the roof). For reference a 2000 square foot home (living space) with a 2 car garage (roughly 400 square feet) would have a building permit fee of \$336. A home enrolled in the program would either meet all of the standard and be eligible for the credit or it wouldn't meet the standard and wouldn't be eligible. A home that complies with the program would receive a 100% credit of the Building Permit Fee.

In no instance would a credit be issued in excess of the total Building Permit fee if an applicant was to participate in other incentive programs.

# Questions and Comments





**TO:** City Council  
**FROM:** Greg Clark, Development Services Manager  
**DATE:** Jun 8, 2021  
**RE:** Visitability Pilot Program

**HISTORY OF VISITABILITY CPT MEETINGS:**

At the May 2, 2019 CPT meeting a Citizen Ad Hoc Committee presented to City staff and Council Members a proposed draft of the Norman Visitability Code. The purpose of the Norman Visitability Code was to establish minimum regulations for the design, installation and construction of single-family homes or other dwellings with less than four units by providing reasonable criteria for Visitability for persons with disabilities or seniors aging in place. A draft copy of the proposed code was provided to staff and Council Members in attendance that was tailored around the Fair Housing Act. It was recommended that staff should review and compare the proposed Norman Visitability Code to applicable and existing code and for Council to discuss its priority during their annual retreat.

**DISCUSSION:**

At this juncture, the proposed Norman Visitability Code has been reviewed by staff. The code comprises a mix of accessibility and visitability concepts using the Fair Housing Act language. The code is not a minimum standard but an elective code that worked around incentives to encourage the building community to build to this higher standard.

Moreover, it is first important to distinguish that the concepts of accessibility and visitability are different as they relate to Single Family Dwellings. Visitability Standards focus around creating a dwelling that's features are welcoming and accommodating to accessible visitors, while also creating a living space that is less challenging for individuals who are ageing in place but may not have defined accessible needs. Accessible Standards for a dwelling go beyond the basic needs and include most all aspects of living, cooking, cleaning, and maintaining the dwelling. An example for an accessible kitchen would be that it requires cooking appliances be installed with considerations for how the owner/occupant will use them with regard to heights, reach ranges and the like. Visitability Standards wouldn't be as concerned with cooking appliances, but that the food preparation areas are dimensioned so individuals could access and use the areas for dining and similar. Another example is an accessible dwelling bathroom would have bathing/showering facilities built to accommodate this need. Bathrooms built to the visitability standard would only have water closets (toilets) and lavatory's (sinks) built to this standard.

**CURRENT CODES AND ACTIVITY:**

office memorandum

Currently, the adopted code for Dwellings for the State of Oklahoma and the City of Norman are the 2015 International Residential Code (IRC). The IRC references the Standard ICC A117.1-2009 for accessible considerations. A section that was added to the standard in the 2009 edition is section 1005 Type C (Visitable) Units. The section deals specifically with creating a minimum standard for Dwelling Units to comply with to be considered Visitable.

The ICC A117.1 Standard also has requirements for Type A accessible dwelling units, and Type B readily adaptable accessible dwelling units. The ICC A117.1 Standard is written as a compliment to the IRC with similar language and few, if any conflicts.

### **RECOMMENDATION:**

After consideration, City Staff believe the best course to start an incentive based program would be to implement a Pilot Program with incentives being credited to new One and Two Family Dwellings and Townhouses with less than 4 units. The Pilot Program awards credits when compliance is achieved using the ICC A117.1-2009 Standard for Type C (Visitable) units. This standard is already adopted and enforced for commercial buildings in Norman and throughout the State of Oklahoma. The standard is updated nationally on a regular basis and is written to keep up with other building codes. If in the future the desire is to expand the program for accessible homes, a standard is already in place for Type A accessible units. By starting the program as a Pilot Program staff can collect data about the program's effectiveness and use, learning from it in looking forward for a permanent solution. To create a larger data pool, we recommend the initial program last two years. Our experience with a similar Pilot Program for Energy Efficient Homes is that this longer Program time is really needed to establish the process, allow builders to become educated about the program and adjust their process to work with it.

### **INCENTIVE:**

The proposed source of the credit would be the Building Permit fee from Sec 5-105 (1)(D). This fee is .14 cents per sq. ft. of the project area (all areas under the roof) of a home. This incentive would be a pass or fail with either 100% of the fee being credited or 0% credited if the home failed to comply. While this may not seem like a significant incentive a lot of the principles of a Visitable Home can be achieved without significant changes to a properties floor plan.

CC: Jane Hudson, Planning & Community Development Director  
Kathryn Walker, City Attorney  
Beth Muckala, City Attorney III

Attachments: Exert from ICC A117.1-2009

A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA ESTABLISHING A TWO-YEAR PILOT PROGRAM ALLOWING BUILDING PERMIT FEES CHARGED PURSUANT TO SECTION 5-105 OF THE NORMAN CITY CODE TO BE ADJUSTED AND SATISFIED AS AN INCENTIVE FOR ELIGIBLE DWELLINGS ACHIEVING CERTAIN VISITABILITY STANDARDS SET FORTH IN ICC SECTION A117.1-2009.

- § 1. WHEREAS, the City of Norman recognizes the strong public interest in the construction of residential dwellings that incorporate architectural design features accommodating and enhancing access and usability for persons (both visitors and residents) who have significant mobility impairments, which in turn serves to promote community and inclusivity; and
- § 2. WHEREAS, construction and development to such standards also promotes the establishment of age-in-place development beneficial to the City of Norman’s current and future senior populations; and
- § 3. WHEREAS the International Code Council (“ICC”) is a U.S.-based membership association that is dedicated to the development of model codes and standards utilized for the “design, build and compliance process to construct safe sustainable, affordable and resilient structures in the build environment”; and
- § 4. WHEREAS, the ICC has developed model code criteria addressing Accessible and Usable Buildings and Facilities, as more specifically set forth in its Standard A117.1-2009 Section 1005 Type C (Visitable) Units (“Visitability Code”); and
- § 5. WHEREAS, it is recognized that incentivizing residential home owners and builders to construct one- and two-family dwelling units or group of townhouses with less than four dwelling units (as set forth in the 2015 International Residential Code, hereafter “Eligible Dwelling”) incorporating visitable construction standards is desirable also to ensuring the quality and versatile design of homes built and sold within Norman municipal limits, and thus benefitting and diversifying the residential housing market, spurring additional visitable residential home construction, and improving residential home values in the City of Norman; and
- §6. WHEREAS, it is recognized that adjusting the building permit fee identified in Section 5-105(1)(D) of the Norman City Code applicable to newly constructed one-and two-family dwelling units or group of townhouses with less than four dwelling units built within Norman municipal limits (“Visitability Permit Fee Adjustment”) is an incentive to prompt builders and home owners to develop “visitable” dwelling units and ultimately assist in achieving Norman’s objectives and desires as set forth herein; and



§7. WHEREAS, the City of Norman City Council wishes to establish a pilot program, to begin August 1, 2021 and continue for two years, during which the City of Norman accept applications relating to the City of Norman's provision of a Visitability Permit Fee Adjustment Incentive Program, and as set forth particularly below; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AS FOLLOWS:

§ 8. That the procedure for obtaining a Visitability Permit Fee Adjustment incentive is hereby established as follows:

- 1) To participate in this program
  - An applicant must have a current City of Norman Utility account (i.e. no "past due" balance)
  - Applicant must be constructing an Eligible Dwelling;
  - Applicant must submit a Visitability Program Participation Application, on the form provided by the City of Norman, which includes detailed plans demonstrating intent to comply with the Visitability Code at the same time it submits a Construction Permit Application for the Eligible Dwelling;
  - A Visitability Final Inspection must be requested by the applicant/permit holder and approved by the Building Inspector verifying compliance with the Visibility Code prior to issuance of a Certificate of Occupancy (CO); and
  - The constructed Eligible Dwelling ultimately satisfies all requirements of the Visitability Code.
- 2) The Building Official or his/her designee shall keep all Visitability Program Participation Applications, or copies of the same on file.
- 3) A Visitability Permit Fee Adjustment applicant shall be responsible to remit payment for all fees set forth in Section 5-105 of the Norman City Code *except* the fee in 5-105(1)(D), which charge shall be held until such time as it is satisfied either by monetary payment or performance under the Visitability Permit Fee Adjustment program set forth herein.
- 4) When the applicant has established compliance with all the criteria set forth in the Visitability Code the applicant will be deemed to have satisfied the building permit fee identified in Section 5-105(1)(D) of the Norman City Code. In the event the applicant fails to satisfy the requirements of the Visitability Code the permit fee, and any other outstanding fee's must be paid in full before a Temporary Certificate of Occupancy or Certificate of Occupancy may be issued.

Application for a Visitability Permit Fee Adjustment shall not prevent submittal of a HERS Permit Fee Adjustment application in relation to the same dwelling, *except that* no applicant's incentive program performance may be deemed to have satisfied more than the total permit fee associated with Section 5-105(1)(D), for each specific location/address.

- 5) Compliance with the Visitability Code must be submitted within eighteen (18) months of issuance of the applicable Construction Permit, and extensions to this submittal limitation may be granted by the discretion of the City for requests submitted to the Planning and Community Development Director.

- 6) The City of Norman may refuse applications and deny or charge back adjustments where the applicant has failed to follow the procedure set forth herein. All initial determinations regarding Visitability Permit Fee Adjustments may be appealed to the Planning and Community Development Director, who may, in his or her discretion, adjust the Visitability Permit Fee Adjustment determination in accordance with this resolution.
- 7) No Visitability Permit Fee Adjustment incentive may be issued to any applicant that is delinquent with respect to its utilities account with the City of Norman or with respect to the payment of any permit fees otherwise owed by applicant to the City of Norman with respect to any other projects within Norman municipal limits, whether or not said project involves an application pursuant to this program.
- 8) All portions of the Norman City Code, and applicable adopted building codes, remain fully enforceable with respect to each applicant and shall be enforced by City of Norman staff pursuant to normal procedures, and irrespective of the existence of this program herein.

§ 9. That City of Norman Development Services Division staff is hereby directed to prepare and maintain forms and other administrative items and procedures consistent with and as necessary to accommodate the process set forth herein. The Building Official has discretionary authority as it relates to determining suitability of submitted plans, material conformance, and inspection-related inquiries, incentives of fees and similar.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_

## **Attachment: Exert from ICC A117.1-2009**

### **Accessible and usable Buildings and Facilities ICC A117.1-2009**

Complete Code can be seen at: <https://codes.iccsafe.org/content/icca117-12009>

## **1005 Type C (Visitable) Units**

**1005.1 General.** Type C (Visitable) dwelling units shall comply with Section 1005.

**1005.2 Unit Entrance.** At least one unit entrance shall be on a circulation path complying with Section 1005.5 from a public street or sidewalk, a dwelling unit driveway, or a garage.

**1005.3 Connected Spaces.** A circulation path complying with Section 1005.5 shall connect the unit entrance complying with Section 1005.2 and with the spaces specified in Section 1005.4.

**1005.4 Interior Spaces.** The entrance level shall include a toilet room or bathroom complying with Section 1005.6 and one habitable space with an area 70 square feet (6.5 m<sup>2</sup>) minimum. Where a food preparation area is provided on the entrance level, it shall comply with Section 1005.7.

**Exception:** A toilet room or bathroom shall not be required on an entrance level with less than 120 square feet (11.1 m<sup>2</sup>) of habitable space.

**1005.5 Circulation Path.** Circulation paths shall comply with Section 1005.5.

**1005.5.1 Components.** The circulation path shall consist of one or more of the following elements: walking surfaces with a slope not steeper than 1:20, doors and doorways, ramps, elevators complying with Sections 407 through 409, and wheelchair (platform) lifts complying with Section 410.

**1005.5.2 Walking Surfaces.** Walking surfaces with slopes not steeper than 1:20 shall comply with Section 303.

**1005.5.2.1 Clear Width.** The clear width of the circulation path shall comply with Section 403.5.

**1005.5.3 Doors and Doorways.** Doors and doorways shall comply with Section 1005.5.3

**1005.5.3.1 Clear Width.** Doorways shall have a clear opening of 31<sup>3</sup>/<sub>4</sub> inches (805 mm) minimum. Clear opening of swinging doors shall be measured between the face of the door and stop, with the door open 90 degrees.

**1005.5.3.2 Thresholds.** Thresholds shall comply with Section 303.

**Exception:** Thresholds at exterior sliding doors shall be permitted to be 3/4 inch (19 mm) maximum in height, provided they are beveled with a slope not steeper than 1:2.

**1005.5.4 Ramps.** Ramps shall comply with Section 405.

**Exception:** Handrails, intermediate landings and edge protection are not required where the sides of ramp runs have a vertical drop off of 1/2 inch (13 mm) maximum within 10 inches (255 mm) horizontally of the ramp run.

**1005.5.4.1 Clear Width.** The clear width of the circulation path shall comply with Section 403.5.

**1005.6 Toilet Room or Bathroom.** At a minimum, the toilet room or bathroom required by Section 1005.4 shall include a lavatory and a water closet. Reinforcement shall be provided for the future installation of grab bars at water closets. Clearances at the water closet shall comply with Section 1004.11.3.1.2.

**1005.7 Food Preparation Area.** At a minimum, the food preparation area shall include a sink, a cooking appliance, and a refrigerator. Clearances between all opposing base cabinets, counter tops, appliances or walls within the food preparation area shall be 40 inches (1015 mm) minimum in width.

**Exception:** Spaces that do not provide a cooktop or conventional range shall be permitted to provide a clearance of 36 inches (915 mm) minimum in width.

**1005.8 Lighting Controls and Receptacle Outlets.**

Receptacle outlets and operable parts of lighting controls shall be located 15 inches (380 mm) minimum and 48 inches (1220 mm) maximum above the floor.

**Exception:** The following shall not be required to comply with Section 1005.8.

1. Receptacle outlets serving a dedicated use.
2. Controls mounted on ceiling fans and ceiling lights.
3. Floor receptacle outlets.
4. Lighting controls and receptacle outlets over countertops.

# City Council Study Session

Home Energy Rating System (HERS) Energy Rating Index (ERI)  
Pilot Program  
June 8, 2021



# History of the Program

- **The HERS/ERI pilot program was created to encourage energy efficient residential home construction by offering credits to builders who built above Residential Energy Code minimums.**
- **The program started in July of 2018 and has been renewed 4 times since then and is set to expire June 30<sup>th</sup> 2021.**



# History of the Program (continued)

- **The below numbers represent current applications submitted to the HERS/ERI program (July 1, 2018-March 31, 2021)**
  - **482 applicants applied to the HERS/ERI program**
  - **67 of the 482 withdrew from the program**
  - **284 homes completed the program receiving CO**
  - **131 applicants remain enrolled in the program**



# History of the Program (continued)

- **Of the applicants submitting to the HERS/ERI program (July 1, 2018-March 31, 2021)**
  - **157 paid a percentage of permit fees (received partial credit)**
  - **127 received full benefit of the program (paid no permit fees because they achieved a HERS rating of 55 or less)**
  - **In all - about \$90,000 in permit fees have been credited to the applicants**



# Current Energy Code Activity

- The Oklahoma Uniform Building Code Commission (OUBCC) is the state body that reviews and adopts the minimum building codes for all jurisdictions in the state of Oklahoma, this includes Building, Electrical, Mechanical, Plumbing and Energy Codes.
- In response to energy code advocates pushing to update the minimum Building Code standards in Oklahoma, the OUBCC has formed a Technical Committee to review the 2015 International Energy Conservation Code, including the Residential Energy Code.
- This Technical Committee is staffed with their first meeting occurring on May 12<sup>th</sup>.
- The earliest their recommendations could become the state wide minimum would be the Spring of 2022.



# Energy Code Activity

ERI	Code Cycle (IECC Year)
100	2006
80	2009
70	2012
65	C.O.N. Program
<b>51</b>	<b>2015 (OUBCC reviewing)</b>
57	2018
51	2021



# Staff Recommendations

**Staff recommends extending the program but to raise the benchmark ERI to 51.**

- **Raising the benchmark to 51 is in line with both the 2015 and 2021 Codes. It's highly unlikely the state adoption would be a number better than this.**
- **At the programs inception in 2018, the benchmark was set to reflect previous code cycles. With 3 years passing since the adoption of this program, if the program is kept, the benchmark should reflect the trend to build more efficiently.**
- **Monies should be earmarked to study the program and evaluate what it helps achieve. (Sample Testing of Homes not in the Program)**



# Staff Recommendations (continued)

Current HERS/ERI Program with the 65 benchmark		Proposed HERS/ERI Program with a 51 benchmark	
55 or less	Builder pays no permit fees	41 or less	Builder pays no permit fees
56	Pays 5% of permit fees	42	Pays 5% of permit fees
57	Pays 10% of permit fees	43	Pays 10% of permit fees
58	Pays 15% of permit fees	44	Pays 15% of permit fees
59	Pays 20% of permit fees	45	Pays 20% of permit fees
60	Pays 25% of permit fees	46	Pays 25% of permit fees
61	Pays 30% of permit fees	47	Pays 30% of permit fees
62	Pays 35% of permit fees	48	Pays 35% of permit fees
63	Pays 40% of permit fees	49	Pays 40% of permit fees
64	Pays 45% of permit fees	50	Pays 45% of permit fees
65	Pays 50% of permit fees	51	Pays 50% of permit fees



# Questions and Comments





**TO:** City Council

**FROM:** Brenda Wolf, Permit Services Supervisor  
Greg Clark, Development Services Manager

**DATE:** June 6, 2021

**RE:** Home Energy Rating System (HERS) Pilot Program

**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.

At the March 29th CPTC meeting, staff presented information related to HERS/ERI rating processes and suggested a pilot program for an incentive program for HERS/ERI-rated new single-family home construction. HERS/ERI scores can be lowered through efficient architectural design, optimal home orientation, reduced air leakage and intrusion, installation of high-energy efficiency appliances and heating, ventilating and cooling equipment, and other methods. The CPTC recommended moving the pilot program forward for further Council discussion and consideration. Council discussed moving a resolution forward to enact a 6-month pilot program for consideration at the May 8, 2019 City Council Conference.

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 is charged based on the home’s 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

office memorandum

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 structure. 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 65, with an additional 5% fee reduction for each point below 65. 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 55 (additional 5% per point x 10 points below 65).

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

The process for applying for an adjusted building permit fee begins with the applicant /builder completing an Annual Participation Program application with the City.

Once the participation application is completed, potential building permit fee adjustments for the HERS/ERI score are noted on the building permit application, noting 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 65 or less on their building permit application are not required to initially pay the building permit fee portion of the permit. All other fees for utility connections, metering, erosion control, parks, Wastewater Excise Tax, and the Oklahoma Uniform Building Code Commission fee (\$4) 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 will be determined, and any outstanding fees owed are required to be paid prior to the City issuing a final Certificate of Occupancy (CO). Applicants may appeal final building permit fee determinations by staff to the Planning and Community Development Director.

### **DISCUSSION:**

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 one year-long extension of the HERS Program with current expiration scheduled for June 30, 2021.

The last Resolution, R-1920-125, took the HERS Program through the three-year mark. The goal of the last extension was to allow a final additional window

of time to review the results of the Program and allow further discussion between City Staff and City Council regarding the potential implementation of a permanent Program.

**CURRENT STATISTICS:**

During the period of July 1, 2018, and March 31, 2021, 482 applications for single-family homes applied to the program. From July 1, 2018 – March 31, 2021, 1,340 single-family homes have applied for building permits. This translates to approximately 35% of the new single-family homes taking advantage of the HERS program. Overall, 67 of the 482 applications withdrew from the HERS program; these withdrawals were not associated with the city process. When an applicant withdraws from the process, permit fees are paid at the time of Certificate of Occupancy (CO).

During the period of July 1, 2018, and March 31, 2021, 284 homes have received Certificate of Occupancy (CO). Of those 284 applications receiving CO, 157 have paid a percentage of fees, these fees range from \$5 to \$282. The other 127 received full benefit of the HERS program - meaning they met the HERS score of 55 or less and they paid zero permit fees to the City. The average permit fee not paid to the city is \$ 312 per permit; this calculation is based on an average 2,500 SF home – overall, the HERS Program have resulted in almost a \$90,000 reduction of the building permit fees paid to the City.

**CURRENT CODES AND ACTIVITY:**

City Staff have researched HERS/ERI guidelines for the state of Oklahoma and found that, in Oklahoma, a technical committee has been informed at the State level that will review the 2015 International Conservation Code (IECC) and associated Residential Energy Code. This committee will make recommendations for review to the OUBCC Board and then the State Government. At the earliest, these recommendations would become effective spring of 2022. It is uncertain what the exact outcome of the state review process will be with regards to energy codes. The code the committee is currently reviewing is the 2015 IECC which as written has an ERI of 51.

**RECOMMENDATION:**

Staff recommends to continue the HERS/ERI program but lower the benchmark to 51 or better. The program's inception was in 2018, and will go through June of 2021, at a minimum. The benchmark originally set in 2018 was reflective of awarding a home that was built in excess of the 2012 code which was two code cycles prior. If the City continues the program staff recommend the benchmark update to 51, consistent with the more recent 2015 IECC for an ERI of 51. If the program is extended, staff recommend that monies be delegated to perform evaluation of the program's success. This could be accomplished by sampling

a number of homes that were not in the program to compare their outcomes to homes in the program.

Below is a visual of how the program currently works regarding the HERS/ERI scores with the 65 rating, and the proposed change in rating to 51.

<b>Current HERS/ERI Program with the 65 benchmark</b>		<b>Proposed HERS/ERI Program with a 51 benchmark</b>	
55 or less	Builder pays no permit fees	41 or less	Builder pays no permit fees
56	Pays 5% of permit fees	42	Pays 5% of permit fees
57	Pays 10% of permit fees	43	Pays 10% of permit fees
58	Pays 15% of permit fees	44	Pays 15% of permit fees
59	Pays 20% of permit fees	45	Pays 20% of permit fees
60	Pays 25% of permit fees	46	Pays 25% of permit fees
61	Pays 30% of permit fees	47	Pays 30% of permit fees
62	Pays 35% of permit fees	48	Pays 35% of permit fees
63	Pays 40% of permit fees	49	Pays 40% of permit fees
64	Pays 45% of permit fees	50	Pays 45% of permit fees
65	Pays 50% of permit fees	51	Pays 50% of permit fees

CC: Jane Hudson, Planning & Community Development Director  
 Kathryn Walker, City Attorney  
 Beth Muckala, City Attorney III

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 COMPLETION OF THE PILOT PROGRAM ESTABLISHED IN R-1718-117 THROUGH JUNE 30, 2022.

- § 1. WHEREAS, the City of Norman recognizes the strong public interest in the construction of energy efficient residential homes, which serve to reduce the consumption of finite natural resources, including both energy and water; and
- § 2. WHEREAS, the City of Norman is pursuing multiple measures and programs designed to establish and modernize the City of Norman’s sustainability objectives, as well as lessen the impact of development on real property located within the City of Norman’s municipal limits; and
- § 3. WHEREAS the NORMAN 2025 Land Use and Transportation Plan adopted by the Norman City Council on November 14, 2004 recognizes the importance of proactively addressing environmental conditions or sensitivities in the context of the factual realities of Norman’s growth trends, patterns, and constraints; and
- § 4. WHEREAS, newly constructed single-family residential homes achieving a HERS/ERI score of 51 or below constitutes a desirable benchmark for achieving the City of Norman’s objectives with respect to quality home construction, sustainability, and energy efficiency; and
- § 5. WHEREAS, it is recognized that incentivizing residential home owners and builders to construct single-family residential homes capable of achieving a HERS/ERI score of 51 or lower is desirable also to ensuring the quality of homes built and sold within Norman municipal limits, and thus benefitting the residential housing market, spurring additional residential home construction, and improving residential home values in the City of Norman; and
- §6. WHEREAS, it is recognized that adjusting the building permit fee identified in Section 5-105(1)(D) of the Norman City Code, applicable to newly constructed single-family residential homes built within Norman municipal limits (“Permit Fee Adjustment”) is an incentive to prompt builders and home owners to assist in achieving Norman’s objectives and desires as set forth herein; and



- §7. WHEREAS, the City of Norman City Council established a Pilot Program, as set forth in R-1718-117, that began July 1, 2018 for an initial period of six (6) months, during which the City of Norman accepted applications relating to the City of Norman's provision of a Permit Fee Adjustment incentive, and as set forth particularly below; and
- §8. WHEREAS, in order to gather vital information regarding the results of the original Program, the City of Norman continued the Program for additional six (6) month periods of time with the passage of Resolutions R-1819-61 (on January 8, 2019), Resolution R-1819-120 (on June 25, 2019), Resolution R-1920-75 (on December 12, 2019) and Resolution R-1920-125 (on June 30, 2020) which extended the program for an additional twelve (12) months which have extended the Program as set forth in R-1718-117, through June 30, 2021; and
- §9. WHEREAS, the City of Norman has determined it wishes to continue the Pilot Program, as set forth particularly below, for an additional twelve-month period of time, effective upon passage of this Resolution, INSERT RESOLUTION , and continuing through June 30, 2022 , in order to best fulfill the purposes of the original Program, an in order to gather necessary information and allow City Council discussion of whether to implement the Program (or some form), permanently,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AS FOLLOWS:

- § 10. That the procedure for obtaining a Permit Fee Adjustment incentive is hereby established as follows:
- 1) Anyone who has an account that is current (i.e., no past due balance) with the City of Norman utilities, and wishing to be eligible for Permit Fee Adjustment(s) for newly constructed single-family residential home(s) (as set forth in the 2015 International Residential Code, "IRC") built within Norman municipal limits, shall complete a Program Participation Application, on the form provided by the City of Norman, and submit the same to the City of Norman Development Services Division.
  - 2) The City of Norman Development Services Division staff shall keep all Program Participation Applications, or copies of the same, on file.
  - 3) Those who intend in good faith to construct a single-family home that will achieve a HERS/ERI Score of 51 or lower, and who wish to apply for a Permit Fee Adjustment incentive with respect to such home, shall initiate the process by noting the same on the designated place on the Construction Permit Application, on the form provided by the City of Norman.
  - 4) The Program Participation Application may be filed concurrently with a Construction Permit Application.
  - 5) Upon receiving a Construction Permit Application noting request for a Permit Fee Adjustment, the City of Norman Development Services Division staff shall note the same in the City of Norman's records when the fees set forth in Section 5-105 of the Norman City Code are charged.

- 6) A Permit Fee Adjustment applicant shall be responsible to remit payment for all fees set forth in Section 5-105 of the Norman City Code *except* that fees set forth in Section 5-105(1)(D) which charge shall be held until such time as it is satisfied either by monetary payment or performance under the Permit Fee Adjustment program set forth herein.
- 7) Upon completion of construction of the home for which the proper applications have been submitted as set forth herein, and prior to an issuance of a Certificate of Occupancy (“CO”) or Temporary Certificate of Occupancy (“TCO”), a Permit Fee Adjustment applicant must submit to the City of Norman Development Services Division staff a Home Energy Rating Certificate and Building Summary, or other a report reliably demonstrating compliance (“Compliance Documents”) that are determined in accordance with RESNET/ICC 301 Standard and submitted by an approved third party qualified to conduct the certification and inspections and perform the required testing.
- 8) Where Compliance Documents properly submitted pursuant to this process indicate, according to the satisfaction of City of Norman Development Services Division staff, a HERS/ERI score of 51 for the applicant home, the applicant will have satisfied 50% of the building permit fee identified in Section 5-105(1)(D) of the Norman City Code. An additional 5% of this fee may be satisfied by each additional point lower of a HERS/ERI score ultimately achieved by the applicant home, for a total of 100% satisfaction for any applicant home achieving a HERS/ERI score of 41 or less. In all cases Application for a HERS/ERI Permit Fee Adjustment shall not prevent submittal of a Visitability Permit Fee Adjustment application in relation to the same dwelling, *except that* no applicant’s incentive program performance may be deemed to have satisfied more than the total permit fee associated with Section 5-105(1)(D), for each specific location/address.
- 9) The City of Norman Development Services Division staff shall keep all Compliance Documents, or copies of the same, on file.
- 10) Prior to issuance of a CO or TCO, applicant is responsible to satisfy any remaining percentage of the fee set forth in 5-105(1)(D) of the Norman City Code by monetary payment. Compliance Documents must be submitted within eighteen (18) months of issuance of the applicable Construction Permit, and extensions to this submittal limitation may be granted at the discretion of the Planning and Community Development Director.
- 11) The City of Norman may refuse applications and deny or charge back adjustments where the applicant has failed to follow the procedure set forth herein. All initial determinations regarding Permit Fee Adjustments may be appealed to the Planning

and Community Development Director, who may, in his or her discretion, adjust the Permit Fee Adjustment determination in accordance with this Resolution.

- 12) No Permit Fee Adjustment incentive may be issued to any applicant that is delinquent with respect to its utilities account with the City of Norman or with respect to the payment of any permit fees otherwise owed by applicant to the City of Norman with respect to any other projects within Norman municipal limits, whether or not said project involves an application pursuant to this program.
- 13) All portions of the Norman City Code remain fully enforceable with respect to each applicant and shall be enforced by City of Norman staff pursuant to normal procedures, and irrespective of the existence of this program herein.

§ 11. That City of Norman Development Services Division staff is hereby directed to prepare and maintain forms and other administrative items and procedures consistent with and as necessary to accommodate the process set forth herein.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk