

From: [Don Wallace](#)
To: [Public Testimony](#); [Clerk](#)
Cc: [MO Chapter, Thomas Hart Benton Group ExCom](#); [Bunch, Eric](#); [Parks-Shaw, Ryana](#); [Lucas, Quinton](#); [Willett, Nathan](#); [MayorO](#); [Platt, Brian](#); [Williams, Jeffrey](#); [Savastino, Andrew](#); [Bough, Andrea](#); [Rea, Crispin](#); [Curls, Darrell](#); [French, Lindsay](#); [Robinson, Melissa](#); [Rogers, Wes](#); [Melissa Patterson Hazley](#); [O'Neill, Kevin](#); [Duncan, Johnathan](#)
Subject: Vote No on the proposed Substitute Ordinance 240434
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[Comment_vote_no_on_Substitute_Ordinance_240434-NEW \(1\)\(2\).docx](#)

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Chair Parks-Shaw and Members of the Neighborhood Planning and Development Committee:

On behalf of the Thomas Hart Benton Group (THBG) of the Sierra Club Missouri Chapter and its members and supporters in Kansas City, I am writing to urge the Committee to vote No on the proposed Substitute Ordinance 240434.

Last month's public discussion at the NPD Committee hearing on this iteration of Ordinance 240434 identified a disconnect between an assumed issue of a declining number of issued home building permits and the City's effectuation of the 2021 IECC on September 29, 2023. The Substitute Ordinance 240434 proceeds as if the additional costs required to comply with the energy efficiency standards is the singular cause for declining housing permits. The available facts and testimony presented by builders, residents, and other stakeholders at the May hearing do not support this assumption, nor do they provide grounds for the drastic proposal for Kansas City to cripple the climate policies adopted by the Council. Further, **there is inadequate data to demonstrate such a causal effect of 2021 IECC upon building permits** as seen in the information provided by the KCMO Planning & Development Department provided, at the June 4 meeting of the Neighborhood Planning and Development Committee and by the Kansas City Home Builders Association webpage.

The estimates of the incremental cost of compliance with the 2021 IECC provided by the HCBA have a poor foundation and are excessively out of line with sound estimates and analyses provided by the City's own staff, by non-profit groups, and by federal agencies. The incremental cost of compliance will be offset by savings in utility costs for occupants of housing, which is especially beneficial to those in need of affordable housing such as rental units. Denying this cost savings from KC's energy code to residents means that they, and particularly renters who make up the nearly half the City's population and have no say in how their home is built, will be burdened by rising utility bills as energy rates continue to increase.

The proposed Substitute Ordinance 240434 offers a pathway that will functionally serve as a substitute displacing the three other pathways of compliance offered under 2021 IECC. Testimony given to the Committee by the public and City staff in May and on June 4 demonstrate that this new pathway **cannot be considered an equivalent to the existing pathways** of 2021 IECC. Instead, Substitute Ordinance 240434 misstates the strategies and goals of the City's 2022 City's Climate Protection & Resiliency Plan and offers a pathway that would effectively allow compliance by reliance on elements of the 2006 IECC and the 2009 IECC. Bluntly, it creates a gaping loophole for profit-seeking developers uninterested in providing energy efficient housing to circumvent the energy code, to the detriment of residents and the City.

This Substitute will not serve the interest of Kansas City; however, there is a clear path forward for the Council to address issues impacting builders to the benefit of all. One councilmember observed in a March 7, 2024, Council Business Meeting on the issue of home building permits, "We're not building

enough stuff. **Let's figure out what the issues are, work through it together as a city.**" This proposed ordinance does not accomplish the initial task in this call of "figure[ing] out what the issues are," and it ignores the evidence provided by City staff, residents, and builders who have named other issues—permit processing; communication from City staff; need for training to name a few. With its exclusive reliance on the input of a self-interested lobbying group, this ordinance fails in the promise to "work through it together as a city." **This ordinance presumes that there is no effect on building permits from the City's permitting processes, the impact of climbing interest rates, the glut of home building permits issues prior to the effective date of IECC 2021, the financial abilities of potential homebuyers, among other factors.**

This substitute Ordinance 240434 precipitously dispenses with any need for additional information on these critical issues. Instead, without supporting evidence of a compelling need, Ordinance 240434 will reverse this city's progress on energy efficiency standards for its building code. **This Ordinance will render ineffective the City's Climate Protection & Resiliency Plan and its pledges to "increase building efficiency and health for commercial and public buildings; improve the efficiency, affordability, and durability of homes; ensure climate-ready, efficient construction."**

Please reject the proposed Substitute Ordinance 240434.

Don Wallace, Sixth District Resident
Member, Legislative Committee, Thomas Hart Benton Group
Sierra Club Missouri Chapter

cc: City Council,
Mayor Quinton Lucas,
City Manager Brian Platt,
Director, City Planning & Development, Jeffrey Williams,
Chief Environmental Officer, Andy Savastino

ADDENDUM: SUPPORTING DATA FOR OPPOSITION TO SUBSTITUTE ORDINANCE 240434

Home Building Permits: There is no data showing a significant decrease in the number of all home building permits issued by KCMO since the effective date of 2021 IECC.

- 1) The data on the number of KCMO **Residential Building Permits** from the [KCHBA webpage](#), can be examined to compare the timeframes, between October 2022-March 2023 and October 2023-March 2024. The number of **KCMO** residential building permits from October 2022 through March 2023 is 348. The number of permits from October 2023 through March 2024 is 302. The difference appears to come from the large number (84) of permits for Platte County in March 2022 compared to the number (13) in March 2023. If the numbers for these two March months were disregarded, the resulting numbers under in the more recent Oct-Feb timeframe are higher than the earlier timeframe: 242 v. 202.
- 2) The KCMO Planning & Development Department provided some **historical context for an explanation for why there could be a decrease** in Residential Building Permits due to the impact of home builders making an increased number of applications prior to the effective date of new building codes.
 - a) Such was seen in the four months preceding the October 2019 effective date for the 2018 IECC residential building code where the monthly average was 107. Under the first four months (Oct. 2020-Jan. 2021) with the implemented 2018IECC, there was an average monthly number for home building permits of 53.5. In the next four months (Feb. – May, 2021) the average monthly number increased to 91.5.
 - b) This pattern of a significant rise in number of housing permits being issued prior to the effective date of a new building code can be seen with the number of permits issued prior to the effective date prior of the 2021IECC energy efficiency standards. In the 7 months prior to October 2023, the average monthly number for permits was 95.3. Considering all permits, in the seven months (Oct 2023—Apr 2024) with the 2021 IECC in effect the average monthly number is 34. The most recent months showing a steady increase in the number of permits under the 2021 IECC; from 0 in December 2023 to 15 in April 2024.

c) As shown by the KCMO Planning & Development Department: The average monthly number of home building permits has not significantly declined from the period May 2019 to May 2023 when this time period is extended from May 2019 to May 2024: 70.17 vs. 67.40.

3) **There is insufficient information in this data to make a compelling argument** that since the effective date of the 2021 IECC standards there continues to be a declining number of building permits coming within the purview of 2021 IECC. The citizens of KCMO need to be assured that Council is not accepting an insupportable argument of a self-interested lobbying group when considering to drastically alter the climate policies it has adopted in the last several years.

Incremental cost of compliance with 2021 IECC: The [KCHBA](#) has provided a uniquely high estimate that with the code changes, there would be “an additional increase in price of \$31,853.” 2021 IECC Adoption Consumer Impact.

1) The **methodology underlying this estimate is at best uncertain and limited.**

a) For this estimate the KCHBA noted that it “asked several builders to provide cost data for achieving the unamended 2021 IECC requirements on locally built homes.” There is no description of how these builders were identified, how many builders were asked, how representative this sample is of builders in the Kansas City area, and how the results of all the requested builders were selected.

b) Only one compliance pathway under the 2021IECC was used by this undefined sample of builders. The estimate is based on “the additional local cost of a double-wall home, a requirement to meet 2021 IECC.” However:

i) There are two other pathways for compliance,

ii) One of which is the [Performance Path](#) to comply with building codes. This customizable option not only follows all recently updated building codes, it also has long provided an efficient and affordable way forward for new and existing construction projects.

c) **Other estimates for the incremental cost of compliance are far lower than that of KCHBA.**

(1) The Midwest Energy Efficiency Alliance calculated the cost attributed to continuous wall insulation using Means Construction Cost Data and arrived at a number about three times less than that proposed in the memorandum (i.e., \$6,958 as compared to \$18,137).

(2) The “Additional Energy Package” that is cited by [KCHBA](#) to cost around \$3,000 was found by the Metropolitan Energy Center ([MEC](#)) to be unnecessary if a builder puts all the ducts in conditioned space, which is a common building practice in many Midwestern homes (and is better for air quality in general).

(3) [MEC](#) observed [A]ctual permitted plans by building professionals revealed an estimate of approximately \$10,000 in increased costs. This lower estimate is supported by builders who recently had designs approved under the 2021 energy code compared to the City’s previous heavily amended 2012 version.

(4) On [May 28, 2024 HUD and USDA](#) confirmed the determination that the 2021 IECC and ASHRAE 90.1-2019 do not negatively affect the availability or affordability of houses covered by EISA

- Table 9 shows the incremental construction costs associated with the 2021 IECC compared to the 2009 IECC for a single family dwelling unit.

Table 9. Total Single-Family Construction Cost Increase for the 2021 IECC Compared to the 2009 IECC (\$)

Single-family Prototype House				
Climate Zone	Crawlspace	Heated Basement	Slab	Unheated Basement
3A	\$5,899	\$5,899	\$6,415	\$5,899
4A	\$6,616	\$6,616	\$7,132	\$6,616
5A	\$5,674	\$6,355	\$6,190	\$5,674

(5) Additionally, contractors who build or substantially renovate energy-efficient homes can claim [federal tax credits up to \\$5,000 per home.](#)

2) Especially for those in need of affordable housing, **there are additional financial benefits** for the occupants of residences built to the standards of the 2021IECC.

d) According to [Cost Effectiveness For Residential Buildings in Missouri](#) (2021), prepared for the U.S. Department of Energy by The Pacific Northwest National Laboratory: For low-income homebuyers

supported by FHA, who have a smaller than average down payment, the net positive cash flow from moving from IECC 2009 to 2021 is after just 1.2 years.

e) **Many of those in greatest need of low-cost housing will be renting.** As such, rental housing built to the energy efficiency standards of IECC 2021, is needed to minimize their utility costs, where it is unlikely that landlords will voluntarily update the energy efficiency of their properties.

HERS Index Alternative: Substitute Ordinance 240434 purports to offer an alternative pathway; this is not an “equivalent” pathway.

a) The reality of this alternative pathway of submitting a Home Energy Rating System (HERS) “Projected Report” showing an index score of 68, is not the equivalent of compliance with 2021 IECC.

b) As Sharla Riead, a *RESNET Accredited Training Provider*, *observes in public comments RE Ordinance 240434*: “A HERS Index of 68 can be achieved by following some items from the 2006 IECC and some items from the 2009 IECC. This will set us backwards. Kansas City builders were achieving Index numbers below 60 prior to this code change already. *** I agree that a HERS Index should be allowed to prove compliance to the energy codes, but it should be required to be a 51 in order to match the other compliance paths.”

c) MEC observes, “In 2022 the average HERS® Energy Index Score for homes in Missouri was 61. The new requirement would encourage homes to be 7% less efficient than the state average, ignoring updated technologies that are economically feasible, readily available, and use modern construction methods and equipment.

d) Substitute Ordinance 240434 misconstrues the goal and strategy of the KCMO Climate & Resiliency Plan:

a. The proposed ordinance claims in its Section 4 that its new compliance path will be “in keeping” with the strategies of the 2022 Climate Protection & Resiliency Plan by following a proposed schedule of reduction of at most 6% over any 3-year period from the prior score. It notes that “following such schedule would result in a HERS score of 50 by the year 2040 as recommended in Strategy B-3” of the Climate Protection & Resiliency Plan.

b. **Section 4 misstates the strategy of Climate Protection & Resiliency Plan** by conflating its clearly expressed goal and strategy in Strategy B-3, which states:

“Maximum Greenhouse Gas Emissions Reduction Potential by 2040

- By building new homes with a HERS score of 50 and commercial buildings with an average EUI of 61.4 kBtu/sq. ft.”

i. The bulleted statement above provides the strategy of building new homes with a HERS score of 50 for arriving at the goal for the year 2040 of maximum GHG reduction.

ii. **There is no mention of arriving at merely an average HERS score of 50** for new homes built between now and the year 2040, the strategy is that new homes will be built “with a HERS score of 50.”

c. Offered in the proposed ordinance is a constricted reduction schedule that reductions in the HERS score not exceed the equivalent of a 6% reduction over any 3-year period from the prior score.

i. Under this schedule, a reduction of no more than 6% every 3 years from 68 in 2024 arithmetically would not reach the goal of a HERS score of 50 by year 2040 as promised by this offered ordinance.

ii. The one-year advance publication requirement for all such reductions far exceeds the Missouri statutory requirement of 90 days (RSMO 67.280).