



# Office of the City Clerk



O2013-1645

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## City Council Document Tracking Sheet

<b>Meeting Date:</b>	3/13/2013
<b>Sponsor(s):</b>	Emanuel, Rahm (Mayor)
<b>Type:</b>	Ordinance
<b>Title:</b>	Amendment of Chapter 5-16 of Municipal Code regarding utility cost disclosures
<b>Committee(s) Assignment:</b>	Committee on License and Consumer Protection

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OFFICE OF THE MAYOR  
CITY OF CHICAGO

RAHM EMANUEL  
MAYOR

March 13, 2013

TO THE HONORABLE, THE CITY COUNCIL  
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Commissioner of Business Affairs and Consumer Protection, I transmit herewith an ordinance amending Chapter 5-16 of the Municipal Code regarding utility cost disclosures.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor

## ORDINANCE

### BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

**SECTION 1.** Chapter 5-16 of the Municipal Code of Chicago is hereby amended by deleting the language stricken and inserting the language underscored, as follows:

#### **DISCLOSURE OF HEATING UTILITY COSTS TO TENANTS**

- 5-16-010      Lease – Disclosures and acknowledgment required – Acknowledgment Exceptions.
- 5-16-020      Applicability Reserved.
- 5-16-030      Utility to provide Acquisition of information required to be disclosed.
- 5-16-040      Newly converted units – Estimates to be provided Reserved.
- 5-16-050      Sale or transfer – Disclosures required – Exceptions.
- 5-16-060      Administration.
- 5-16-070      Penalties.
- 5-16-080      Severability.

#### **5-16-010 Lease – Disclosures and acknowledgment required – Acknowledgment Exceptions.**

(a) \_\_\_\_\_ A building or dwelling unit owner, or agent thereof, shall not execute an oral or written lease, contract to lease, or accept any money or other valuable consideration in an application for an oral or written lease for a dwelling unit which is primarily heated by natural gas or electricity and in which utility service for heat is individually metered to the dwelling unit and the tenant is directly responsible to the utility company for paying the cost of heating costs are the responsibility of the tenant without disclosing to the tenant or applicant in written form:

(1) That the cost of heating shall be the responsibility of the tenant; and

(2) The projected average monthly annual cost of utility service from the utility providing the primary source of heat based on energy consumption during the most recent annual period of continuous occupancy by one or more prior occupants, current or expected rates, and normalized weather, as calculated by the method approved by the Illinois Commerce Commission previous twelve months.

~~Further, subject to the penalties provided in Section 5-16-070 herein, no building or dwelling unit owner, or agent thereof, shall execute a written lease for such a dwelling unit without making such disclosures within such written lease.~~

The tenant or applicant shall be required to execute a receipt acknowledging that these written disclosures has have been made.

(b) Subsection 5-16-010(a) shall not apply to:

(1) oral or written leases for rental dwelling units in which the contracting tenant continues his previous occupancy, providing that the tenant, during that previous term, was directly responsible to the utility company for paying the cost of heating; or

(2) oral or written leases for condominium, cooperative, or other dwelling units in which the primary source of heat is provided centrally by the landlord or building management and the costs of energy for heating are shared and indirectly billed on some basis not directly related to individual dwelling unit usage, such as allocation based on floor space.

**5-16-020 Applicability Reserved.**

~~(a) — The provisions of Section 5-16-010 shall apply to rental dwelling units which are heated primarily by natural gas or electricity and in which utility service for heat is individually metered to each dwelling unit and tenants are directly responsible to the utility company for paying the cost of energy to supply heat.~~

~~(b) — The provisions of Section 5-16-010 shall not apply to oral or written leases for rental dwelling units in which the contracting tenant continues his previous occupancy providing that the tenant, during that previous term, had the obligation to directly pay the utility company for the utility service used for heating.~~

**5-16-030 Utility to provide Acquisition of information required to be disclosed.**

~~Except as provided in Section 5-16-040, t~~ The information required to be disclosed in ~~S~~subsection 5-16-010(a)(2) and Section 5-16-050(a) may be obtained by the requestor from an online website. Alternatively, the information shall be provided, at no direct cost to the requestor or intended recipient, by the utility company which supplies—or companies that supply energy for the primary heating source—to the dwelling unit upon the written request of the building or dwelling unit owner or his agent. Every such written request shall contain an affirmative statement that the person or entity making the request possesses title or, in the case of trust, is the owner of the power of direction to the property in which the dwelling unit is located or is the agent of such person or entity. The utility company receiving such written request shall be entitled to rely on the affirmative representation of such owner or agent and shall not be obligated to do anything further to ascertain or confirm the identity of the owner and/or agent of the property.

The utility company shall devise forms to be used for requesting and providing this information. The city shall undertake a program to educate the public and shall make request forms available throughout the city. Under no circumstances shall the information provided to building or dwelling unit owners, tenants or prospective tenants under this process disclose payment records of or the name to whom the account was formerly billed. The utility company shall provide such information within two weeks of its receipt of a properly executed written request.

Once received by the owner or his agent, the information obtained from an online website or provided by the utility shall be considered valid for the disclosure purposes of this chapter for six months from the date of issuance that it was obtained or provided.

The information ~~required in or estimate disclosed pursuant to~~ §subsection 5-16-010(a)(2), and provided by the utility company providing the primary source of heat subsection 5-16-050(a), or subsection 5-16-050(b) shall not be construed as an offer or guarantee by the utility company to provide energy for the ~~projected average monthly cost contained reported~~ in the information or estimate, and the utility company shall not be liable for any difference between the ~~projected average monthly reported~~ cost and the actual cost incurred by the tenant or owner to whom the information or estimate is disclosed. Nothing in this chapter shall be construed as relieving any person of the responsibility of paying the amounts billed them for utility service by a utility company.

**5-16-040 ~~Newly converted units – Estimates to be provided~~ Reserved.**

~~For any dwelling unit which has been newly converted to a natural gas or electric individually metered heating system or for new construction of a property primarily heated by natural gas or electricity which does not have any energy consumption history for the individually metered system, the owner or his agent shall provide estimates of the unit's energy consumption for the utility service used for primary heating to the lessee, prospective tenant, purchaser or prospective purchaser. Such estimates may be analyses supplied by a utility company, a registered professional engineer or architect and shall be performed by the "degree day method" prescribed in the most recent Handbook of the American Society of Heating, Refrigerating and Air Conditioning Engineers (A.S.H.R.A.E.).~~

**5-16-050 ~~Sale or transfer – Disclosures required – Exceptions.~~**

(a) All owners of residential dwelling units and buildings (and their agents) shall, at the time of any offering for sale of said residential dwelling units and buildings, or in the case where improved real property is held under trust the sale of real property which forms the corpus of the trust or the transfer of the beneficial interest in such property, including contract sale, be required to provide to the purchaser or prospective purchaser either:

(1) copies of all bills ~~or~~ for heating and electric costs for the dwelling unit or building for the previous 12 months;

(2) copies of all receipts, ~~or~~ for payment of heating and electric costs for the dwelling unit or building for the previous 12 months;

(3) copies of all cancelled checks used to pay for heating and electric costs for the dwelling unit or building for the previous 12 months; or

(4) a copy of one utility budget plan bill for heating ~~utility or fuel~~ and electric costs for the dwelling unit or building for the previous 12 months during which the dwelling unit or building was continuously occupied.

In the alternative, the owner or agent may satisfy this requirement by making the required information available on an online website. The disclosure owner or agent may also satisfy the requirement ~~shall be satisfied of disclosing utility costs by the provision of providing~~ information supplied concerning such costs acquired from the utility providing the primary source of heat as in the manner described in Section 5-16-030 or, if appropriate, as in Section 5-16-040. The owner or agent shall also inform the purchaser or prospective purchaser whether the dwelling unit or building was occupied during the previous 12 months, and, if so, for what portion of the time.

~~(b) Further, subject to the penalties provided in Section 5-16-070 herein, n~~ No building or dwelling unit owner, or agent thereof, shall execute a written contract for such a sale or transfer for such residential dwelling unit or building without making such disclosures within such written contract for sale or transfer. ~~Such d~~Disclosure of information shall include:

(1) For sales or transfers of single-family dwellings and individually metered dwelling units in multifamily buildings:

The ~~monthly and total annual~~ consumption and cost for the primary source or sources of heating energy or fuel (natural gas, electricity, or fuel oil) and electricity for the previous 12 months, as well as whether the unit was occupied during that period, and, if so, for what portion of the time;

(2) For sales or transfers of entire multifamily buildings regardless of whether heating service is centrally or individually metered and billed:

This ~~The monthly and total cost and consumption of and cost for heating energy or fuel (the primary source or sources of natural gas, electricity or fuel oil) and electricity for such the~~ entire building, and the amounts directly billed to each particular dwelling unit by any utility ~~or fuel supplier for natural gas and electricity for the previous 12 months, as well as whether each unit was occupied during that period, and, if so, for what portion of the time.~~

~~(bc) The provisions of this Subsections (5-16-050)(a) and (b) shall not apply to:~~

(1) sales or transfers in which the purchaser is currently a tenant of the dwelling unit who has the obligation to ~~and is~~ directly pay the utility company for the utility service used for heating responsible to the utility company or companies for paying the cost of heating and electricity; or

(2) sales or transfers of condominium, cooperative, or other dwelling units in which the primary sources of heat and electricity are provided centrally by the landlord or building management and the costs of energy for heating and electricity are shared and indirectly billed on some basis not directly related to individual dwelling unit usage, such as allocation based on floor space.

**SECTION 2.** This ordinance shall take effect upon passage and approval.