



adopted its most recent update in November 2019, Title 9, Chapter 1 “Construction Codes”. The California Building Code and the Town Code currently contain energy-efficient requirements, such as “green” building requirements.

In addition, State law allows local jurisdictions to adopt more stringent local amendments to the building code if reasonably necessary because of local climatic, geological, or topographical conditions. (See i.e., Health & Saf. Code, § 17958.7.)

The California Building Code (as currently applied in the Town) does not dictate the type of energy to be used in new buildings. Rather, it provides prescriptive and performance based environmental requirements. The Climate Action Committee supported the Ordinance, which is intended to reduce the use of fossil fuels and promote cleaner electric power.

Fossil fuel usage, such as natural gas, has several drawbacks:

- The primary component in natural gas is methane, which is a pollutant that contributes to climate change. Climate change has contributed to extreme weather and hazard conditions including wildfires, drought, and flooding.
- Methane pollution can occur throughout a natural gas system including leaks within homes and buildings.
- Methane pollution may also occur when natural gas is burned in a building by appliances including cooking, space heating, and clothing washers and driers.
- Indoor natural gas use for cooking can pollute indoor air quality.
- A benefit to having natural gas connections is that it provides resiliency, especially during a Public Safety Power Shutoff.

In April 2020 the Town adopted new Reach Codes which allowed all construction to be mixed fuel, limited mixed fuel or all electric. Since the adoption of this ordinance staff does not believe anyone has gone all electric in homes but a number of Accessory Dwelling Units have.

Requiring that new residential buildings use electric power benefits the environment and promotes green electric energy. Approximately 50 California jurisdictions, including the Town of Fairfax and the City of Petaluma, have adopted ordinance amendments to require new construction to be all electric.

The Ordinance Amendment would apply to all new construction residential building permit applications submitted on or after the effective date of the new ordinance. It will require all newly constructed residential buildings to be constructed to use solely electric power. A “newly constructed building” is defined as a building that has “never been used or occupied for any purpose”, mirroring the definition used by many California jurisdictions with similar ordinances including the Town of Fairfax. Substantial remodels would not be subject to the ordinance; however, based on direction from the Council, staff will return with additional information when the Council considers adoption of the County’s Reach Codes later this year.

The Ordinance Amendment contains narrow exemptions. First, under the public interest exemption, the Town may allow the installation of natural gas infrastructure in a newly constructed residential building if it determines that it is in the public interest. The Town may consider factors including, but not limited to, the availability of alternative technologies or systems that do not use natural gas, and the impact the decision may

have on the public health, welfare, and safety. However, the building must include sufficient electrical infrastructure such as wiring and conduit to facilitate full electrification in the future. Additionally, the Town Building Official may grant an exemption if it determines that full electrification is physically infeasible under the circumstances. All exempt projects remain subject to other green building code requirements.

A survey link was sent out with the Town's newsletter dated May 14, 2022 and closed on May 23, 2022. (Attachment 3). 96 people responded to the survey, which was attached to the June 14, 2022 staff report.

Finally, the attached Ordinance Amendment provides that the requirements shall constitute "objective standards" pursuant to SB 35 (Gov. Code § 65913.4), the Housing Accountability Act (Gov. Code § 65589.5) and SB9. By way of background, these State laws only allow a municipality to impose objective standards to certain housing development projects.

### **FISCAL IMPACT**

There is no significant financial impact associated with the Ordinance Amendment.

### **GENERAL PLAN CONSISTENCY**

The proposed Ordinance Amendment is consistent with the General Plan.

### **CEQA AND CLIMATE ACTION PLAN CONSISTENCY**

The proposed Ordinance Amendment is exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) because it is not a "project" under CEQA; CEQA Guidelines section 15061(b)(3), the "common sense exemption", because the proposed Ordinance Amendment will not have a significant environmental effect; and CEQA Guidelines section 15307 and 15308 as an action taken by a regulatory agency to protect the environment.

The Town's long term climate action goal as set forth in the Climate Action Plan includes the electrification and the phase-out of fossil fuels by upgrading and replacing fossil fuel-based infrastructure throughout the transportation and building sectors with cleaner electric power. (Climate Action Plan, p. 8.) Additionally, Chapter 2 of the Climate Action Plan encourages the use of electric power in new construction. The proposed Ordinance Amendment is consistent with the Climate Action Plan because it reduces the use of non-renewable fossil fuels in newly constructed buildings and promotes environmentally cleaner electric power.

### **CONCLUSION**

Staff recommends that the Town Council consider the adoption of the attached Ordinance Amendment.