



Legislation Text

File #: 22-249, **Version:** 1

FROM:

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SUBJECT:

Introduction and first reading of an Amendment to the San Anselmo Municipal Code adding Chapter 24 "All Electric Construction in Newly Constructed Residential Buildings" to Title 9 "Building Regulations"; and Amendment to Chapter 9-19 "Green Building Requirements" for consistency.

RECOMMENDATION

1. That the Town Council hold a public hearing to consider the Ordinance Amendment.
2. Make a motion to introduce the Ordinance by title only and to waive future readings in their entirety.

BACKGROUND

On March 8, 2022, Council provided direction to staff on the electrification of new residential construction, see Attachment 2. Confronting climate change and promoting environmental sustainability are important goals for the Town of San Anselmo. The Town's Climate Action Plan sets forth the Town's environmental goals and policies. Recently, there has been a growing push to reduce reliance on fossil fuels by requiring all new buildings to be electric-only. Staff proposes an amendment to the Town Code requiring that all new residential construction include electric-only sources of power as one tool to reduce greenhouse gas emissions and further the use of cleaner electric power.

DISCUSSION

The main provision of the proposed Ordinance Amendment would be to require that all new residential buildings must completely utilize electricity as a permanent source of power. No natural gas or propane infrastructure would be allowed in newly constructed buildings.

The State of California adopts new building standards every three years, codified in Title 24 of the California Code of Regulations known as the California Building Standards Code. ("California Building Code." Municipalities adopt the California Building Code by reference into their own local codes. San Anselmo 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 suggests that to reduce the use of fossil fuels and promote cleaner electric power, it is necessary to require that all new buildings be constructed with electricity as the sole power source.

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.

Fossil fuel usage, such as natural gas, has a benefit:

- A natural gas connection provides resiliency as an alternative energy source, especially during a Public Safety Power Shutoff.

In April 2020 the Town adopted a Green Building Ordinance, referred to as “reach codes” which allowed all construction to be mixed fuel, limited mixed fuel, or all-electric. Since the adoption of this ordinance, staff believes that a number of Accessory Dwelling Units have gone all-electric.

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

The proposed Ordinance Amendment would apply to all new residential building permit applications submitted on or after the effective date of the new ordinance. It would require all newly constructed residential buildings to be constructed to use solely electric power. A “newly constructed building” is defined as a residential 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, should the Council desire to include substantial remodels, staff will return with additional language and analysis for the Council’s consideration.

The proposed 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. The proposed Ordinance Amendment also exempts food services establishments with commercial kitchens, in order to reduce the burden on local business and promote the economic vitality of the

Town. 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. Out of the 96 people, more than 50 percent opposed the all-electric ordinance for new residential construction. There were a variety of concerns with the proposed ordinance which include: monthly costs, vulnerability during electrical outages, distrust of PG&E and government, an overburdened electrical grid, and people who do not want to give up their gas stoves. Please see Attachment 3 for specific survey results.

Finally, the proposed 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, except it may require additional review time by staff.

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 approval of the proposed Ordinance Amendment.