



## SUSTAINABILITY DIVISION

CITY HALL  
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255  
TELEPHONE: (408) 777-3223 • FAX: (408) 777-3366  
CUPERTINO.ORG

### CITY COUNCIL STAFF REPORT

Meeting: January 21, 2020

#### **Subject**

Adoption of Local Amendments to 2019 California Energy & Green Building Standards Codes (Reach Code); determination that adoption of the proposed Ordinance is not a project subject to CEQA, or that if it is a project, it is exempt from CEQA.

#### **Recommended Action**

Conduct the second reading and enact Ordinance No. 19-2193: “An Ordinance of the City Council of the City of Cupertino Amending City Code Chapters 16.54 and 16.58 Adopting the 2019 California Energy Code and Green Building Standards Code with Certain Exceptions, Deletions, Modifications, Additions and Amendments.”

#### **Background**

On November 19, 2019, the City Council held a Study Session to consider reach code policy options. At that time, Council and the public expressed strong interest in an all-electric reach code, which would require, rather than incentivize, electric appliances for space and water heating, cooking, and clothes drying, along with a higher level of electric vehicle charging than the State Code requires.

On December 17, 2019, the Council conducted the first public hearing of this Ordinance. During the first reading of the Ordinance, Council discussed the merits of the reach code provision, and ultimately voted to strengthen the Ordinance by requiring electrification of fireplaces (indoor and outdoor) and detached Accessory Dwelling Units, and by making changes to the modification process for installing gas cooking appliances in for-profit restaurants and employee kitchens. The specific changes are outlined further below.

#### **Discussion**

Staff recommends enacting the attached Ordinance in order to make modifications to the California Energy Code and Green Building Standards Code. A public hearing and first reading of this Ordinance was held on December 17, 2019, at which time staff provided an overview of the reach code measures proposed in the Ordinance, described the reach code development process, and explained staff’s findings that the energy reach code is cost-effective and will require the diminution of energy consumption levels permitted by the state Energy Code. A copy of that report, along with the cost-effectiveness studies staff

relied upon, is attached. At the first public hearing on the Ordinance, the Council also adopted Resolution No. 19-146: “A Resolution making factual findings with respect to the local geological, topographical, and climatic conditions necessary to make local amendments to the California Building Standards Code.”

During the first public hearing of the reach code ordinance, Council directed staff to make several changes to the proposed Ordinance, which are detailed below. Additions are reflected in red underlining, while removals are reflected in red strikethrough:

**Amendment to 16.54.100 Scope, Exception 3 to read:**

Exception 3: Non-residential buildings containing a for-profit restaurant open to the public or an employee kitchen may apply to the Building Official for a modification to install gas-fueled cooking appliances. This request must be based on a business-related reason to cook with a flame that cannot be reasonably achieved with an electric fuel source. The Building Official may grant this modification if he or she finds the following:

1. There is a business-related reason to cook with a flame; and
2. This need cannot be reasonably achieved with an electric fuel source; and
3. The applicant has employed reasonable methods to mitigate the greenhouse gas impacts of the gas-fueled appliance.

If the Building Official grants a modification, the applicant shall comply with the pre-wiring provision of Note 1 below.

~~Exception 3: Kitchens located within nonresidential buildings shall be exempt from the all electric building provisions of this section. If this Exception applies, the applicant shall comply with the pre-wiring provision of Note 1 below.~~

**Amendment to 16.54.100 Scope, Exception 5 to read:**

Exception 5: Attached Accessory Dwelling Units and Junior Accessory Dwelling Units shall be exempt from the all-electric building provisions of this section. For purposes of this exception, “Accessory Dwelling Unit” has the same definition as set out in Government Code Section 65852.2, and “Junior Accessory Dwelling Unit” has have the same definitions s as set out in Government Code Section 65852.22. ~~and 65852.22, respectively.~~

**Amendment to 16.54.110 Definitions and Rules of Construction, All-Electric Building to read:**

ALL-ELECTRIC BUILDING: is a building that has no natural gas or propane plumbing installed within the building, and that uses electricity as the sole source of energy for its space heating, water heating (including indoor and outdoor pools and spas), cooking appliances, outdoor kitchens, outdoor fireplaces, and clothes drying appliances. All-Electric Buildings may include solar thermal pool heating.

Next Steps

Upon adoption, the ordinance will be submitted to the California Building Standards Commission (CBSC) and the California Energy Commission (CEC). The energy reach code requirements will be effective upon CEC approval.

### **Environmental Determination**

The proposed Ordinance would not be a project under the requirements of the California Environmental Quality Act of 1970 or the State CEQA Guidelines, Title 14 of the California Code of Regulations (collectively, "CEQA") because it has no potential for resulting in physical change in the environment. In the event that the Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3), because it can be seen with certainty that there is no possibility that the project will have a significant effect on the environment. CEQA applies only to projects which have the potential of causing a significant effect on the environment. In this circumstance, the amendments to the City Code would have no or only a de minimis impact on the environment. The Ordinance is also exempt from CEQA under CEQA Guidelines section 15308, because it is a regulatory action for the protection of the environment.

### **Sustainability Impact**

The proposed Ordinance is expected to mitigate much of the carbon emissions impact of future development in the City of Cupertino, bringing the City closer to meeting the target emissions reduction pathway as outlined in the Climate Action Plan. This Ordinance also aligns Cupertino with current and anticipated future State policies to decarbonize the building and transportation sectors.

### **Fiscal Impact**

None anticipated.

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Prepared by: Andre Duurvoort, Sustainability Manager

Reviewed by: Katy Nomura, Assistant to the City Manager

Albert Salvador, Assistant Director of Community Development/Building  
Official

Approved for Submission by: Deborah Feng, City Manager

### **Attachments:**

- A – Ordinance
- B – Redlined Version of Codes
- C – December 17, 2019 Staff Report
- D – 2019 Residential New Construction Cost-Effectiveness Study
- E – 2019 Nonresidential New Construction Cost-Effectiveness Study