

ORDINANCE NO. 539

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HERCULES AMENDING CHAPTER 5 OF TITLE 9 OF THE HERCULES MUNICIPAL CODE TO REQUIRE CERTAIN NEWLY CONSTRUCTED BUILDINGS TO BE ALL-ELECTRIC BUILDINGS.

WHEREAS, the 2022 Edition of the California Building Standards Code (CBSC) will take effect throughout California on January 1, 2023, and provides standards for both the use of natural gas and electricity for substantially the same purposes, such as heating buildings, cooking food, etc.; and

WHEREAS, Health and Safety Code Sections 17958.5 and 18941.5 authorizes local agencies to establish more restrictive building standards than those specified in the CBSC, including, but not limited to, green building standards that are reasonably necessary because of local climatic, geological, or topographical conditions based on and in accordance with the findings required by Health and Safety Code Section 17958.7 and the other requirements imposed by Section 17958.7; and

WHEREAS, consistent with Health and Safety Code sections 17922, 17958, 17958.5, 17958.7, and 18941.5 as well as Public Resources Code section 25402.1(h)(2) and Government Code sections 50020 through 50022.10, the City of Hercules desires to establish more restrictive standards than those contained in the 2022 California Energy Code to require all newly constructed residential buildings, hotels, and office buildings to be constructed as all-electric buildings without natural gas infrastructure.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HERCULES DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. RECITALS. The above recitals are true and correct. The City Council hereby incorporates the above recitals into this Ordinance by this reference.

SECTION 2. ENVIRONMENTAL REVIEW. This amendment is Categorical Exempt from CEQA pursuant to Section 15061(b)(3) (the “common sense exemption”) as it can be seen with certainty that there is no possibility the project will have a significant effect on the environment and thus is not subject to CEQA. Adoption of these building standards does not require or authorize any construction or physical impact to the environment, and the standards themselves are intended to reduce greenhouse gas emissions.

SECTION 3. AMENDMENTS. That the City Council of the City of Hercules does hereby amend Hercules Municipal Code, Title 9, Chapter 5, to read as follows:

Sec. 9-5.01 Administration.

These regulations shall be known as the “Electrical Code,” and may be so cited, and will

be referred to herein as “this Chapter.”

This Code is one of the technical codes of Building Regulations and is administered under Title 9, Chapter 5 of the Hercules Municipal Code. (Ord. 254 Div. 6 (part), 1987)

Sec. 9-5.02 Adoption by Reference.

The California Electrical Code, 2019 Edition (California Code of Regulations, Title 24 Part 3) based on the 2017 Edition of the National Electrical Code, as published by the National Fire Protection Association, as modified by the State of California and published in the “California Code of Regulations,” is adopted by reference and made a part of this Chapter as though fully set forth herein, subject to the additions and deletions set forth in this Chapter. (Ord. 526 § 6 (part), 2019)

Sec. 9-5.03 Copies on File.

One (1) copy of the 2019 California Electrical Code as adopted by Section 9-5.02 is on file in the office of the Chief Building Official for inspection by the public. (Ord. 526 § 6 (part), 2019)

Sec. 9-5.04 Amendments, Additions and Deletions.

(a) Addition to Chapter 1, Section 101 Scope to read as an additional paragraph as follows:

(1) The Administrative part of this chapter is in addition to the City of Hercules Building Regulations Administrative Code, Title 9, Chapter 1 of the Hercules Municipal Code. Where conflicts occur between this chapter and Title 9, Chapter 1 of the Hercules Municipal Code, the provisions of Title 9, Chapter 1 of the Hercules Municipal Code shall govern. (Ord. 254 Div. 6 (part), 1987)

(b) The 2019 California Energy Code (“CEnC”) is amended by the changes, additions, and deletions set forth in this chapter. Section numbers used below are those of the 2022 California Energy Code.

(1) Section 100.0(e)(2)(A) of CEnC Subchapter 1 (All Occupancies - General Provisions) is amended to read:

A. All newly constructed buildings.

(i) Sections 110.0 through 110.12 apply to all newly constructed buildings and rebuilt buildings within the scope of Section 100.0(a), where rebuilt involves demolition and reconstruction of a building or structure involving the repair or replacement of fifty (50) percent or more of the exterior walls or involving work that exceeds one-half (½) of the appraised value of the structure. In addition, newly constructed buildings shall meet the requirements of Subsection B, C, D, or E, as applicable.

(ii) A newly constructed building that is any of the following building types shall be an all-electric building:

- a. Residential
- b. Detached Accessory Dwelling Units
- c. Hotel
- d. Office

Exceptions to Section 100.0(e)(2)(A)(ii):

- Laboratory- and research-specific functions within laboratories and medical buildings (general heating and appliance purposes within laboratories and medical facilities are not exempt).
- Emergency facilities and emergency generators;
- Development projects that have obtained vested rights before the effective date of this subsection pursuant to a development agreement in accordance with Government Code section 65866, a vesting tentative map in accordance with Government Code section 66998.1, or other applicable law.

(1) Section 100.1(b) (Definitions) of CEnC Subchapter 1 (All Occupancies – General Provisions) is amended by adding the following definition:

ALL-ELECTRIC BUILDING means 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 (including heating of all indoor and outdoor spaces of the building), water heating (including heating of indoor and outdoor pools and spas), cooking appliances, and clothes drying appliances. An all-electric building may utilize natural gas for emergency generators.

Sec. 9-5.05 Permits Required.

It shall be unlawful for any person, firm or corporation to install, alter, repair, replace or remodel any electrical system or equipment regulated by this Code. (Ord. 288 Div. 1 (part), 1990)

Sec. 9-5.06 Unsafe Electrical Systems.

All electrical systems or equipment regulated by this Code which are unsafe, or which constitute a fire hazard, or are otherwise dangerous to human life are, for the purpose of this Section, unsafe. Any use of electrical systems or equipment regulated by this Code constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is, for the purpose of this Section, an unsafe use.

All such unsafe electrical systems or equipment are declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the Uniform Code for the Abatement of Dangerous Buildings or such alternate procedure as may be adopted by this jurisdiction. As an alternative, the Building Official or other employee or official of this jurisdiction as designated by the governing body may institute any other appropriate action to prevent, restrain, correct or abate the violation. (Ord. 288 Div. 1 (part), 1990)

SECTION 20. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decisions shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have adopted the Ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be deleted.

SECTION 21. EFFECTIVE DATE AND PUBLICATION. The City Clerk shall certify to the adoption of this Ordinance and shall publish or post the Ordinance as required by law. This Ordinance shall be effective thirty (30) days from date of final adoption.

THE FOREGOING ORDINANCE was first read at a regular meeting of the Hercules City Council on the 24th day of May 2022 and was passed and adopted at a regular meeting of the Hercules City Council on the 14th day of June, 2022 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dion Bailey, Mayor

Lauren Berges, CMC
City Clerk