

ORDINANCE NUMBER \_\_\_\_\_ (CCS)

(City Council Series)

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA MONICA AMENDING THE SANTA MONICA MUNICIPAL CODE BY ADDING CHAPTER 8.38 ENTITLED, "ZERO EMISSION BUILDING CODE" AND AMEND SECTION 8.08.040(a) TO ALLOW THE BUILDING AND FIRE LIFE SAFETY COMMISSION TO HEAR APPEALS RELATED TO THE ZERO EMISSION BUILDING CODE.

WHEREAS, Scientific evidence has established that natural gas combustion, procurement and transportation produce significant greenhouse gas emissions that contribute to global warming and climate change; and

WHEREAS, This Chapter is also reasonably necessary because of health and safety concerns as City residents suffer from asthma and other health conditions associated with poor indoor and outdoor air quality exacerbated by the combustion of natural gas; and

WHEREAS, As a coastal city, Santa Monica is vulnerable to sea level rise. Human activities releasing greenhouse gases into the atmosphere cause increases in worldwide average temperature, which contribute to melting of glaciers and thermal expansion of ocean water, resulting in rising sea levels; and

WHEREAS, consistent with the City's Climate Action & Adaptation Plan, this chapter establishes requirements for carbon-neutral construction codes, which will reduce demands for local energy and resources, reduce regional pollution, and promote a lower contribution to greenhouse gases; and

WHEREAS, using electric heating and cooling infrastructure in new buildings fueled by less greenhouse gas intensive electricity is linked to significantly lower greenhouse gas emissions and is cost competitive because of the cost savings associated with all-electric designs that avoid new gas infrastructure; and

WHEREAS, All-electric building design benefits the health, welfare, and resiliency of Santa Monica and its residents; and

WHEREAS, The most cost-effective time to integrate electrical infrastructure is in the design phase of a building project because building systems and spaces can be designed to optimize the performance of electrical systems and the project can take full advantage of avoided costs and space requirements from the elimination of natural gas piping and venting for combustion air safety; and

WHEREAS, It is the intent of the City Council to eliminate natural gas emissions in new buildings where all electric infrastructure can be most practicably integrated, thereby reducing the environmental and health hazards produced by the consumption and transportation of natural gas; and

WHEREAS, cost effectiveness studies prepared by the California Statewide Investor-Owned Utilities Codes and Standards Program in conjunction with consultants and cities (collectively known as the “Reach Code Team”), demonstrate that all-electric homes are cost-effective and do not result in buildings consuming more energy than is permitted by the 2022 California Energy Code; and

WHEREAS, the content and details of this ordinance were the subject of 4 public stakeholder workshops conducted on June 8, June 16, July 6, and July 7, 2022, at which

attendees included architects, energy modelers, designers, builders, developers, and residents; and

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

SECTION 1. Santa Monica Municipal Code Chapter 8.38 is hereby added to read as follows:

**Chapter 8.38 Zero Emission Building Code**

**8.38.010 Applicability.**

(a) Except as provided by paragraph (b), below, the requirements of this Chapter shall apply to all Newly Constructed Buildings as provided in Section 8.38.030 for which a building permit for construction is issued on or after January 1, 2023.

(b) The requirements of this Chapter shall not apply to:

(1) Newly Constructed Buildings for which a complete building permit application is submitted on or before December 31, 2022;

(2) Junior Accessory Dwelling Units;

(3) Accessory Dwelling Units that are attached to an existing primary residential unit that has natural gas infrastructure;

(4) City-Designated Historic Resources demolished in the course of rehabilitation, if compliance with the requirements of this Chapter would require removal of more original finishes or features than proposed in the scope of the rehabilitation; and

(5) The use of portable propane appliances for outdoor cooking and heating.

(c) This Chapter neither amends the California Energy Code as adopted by Section 8.38.010 of this Code, nor requires the use or installation of any specific appliance or system as a condition of approval.

**8.38.020 Definitions.**

For purposes of this Chapter, the following words or phrases shall have the following meanings:

(a) “Accessory Dwelling Unit” means an accessory dwelling unit as defined in Santa Monica Municipal Code Section 9.52.020.0095.

(b) “Applicant” means any person, firm, partnership, association, joint venture, corporation, or any other entity or combination of entities, or state or local government agency applying for a permit for a newly constructed building.

(c) “Energy Code” means the most current version of the California Energy Code published by the California Building Standards Commission as adopted by reference pursuant to Chapter 8.36 and any local amendments thereto.

(d) “City-Designated Historic Resource” means a city-designated historic resource as defined by Santa Monica Municipal Code Section 9.52.020.0500.

(e) “Greenhouse gas emissions” means gases that trap heat in the atmosphere.

(f) “Junior Accessory Dwelling Unit” means a junior accessory dwelling unit as defined in Santa Monica Municipal Code Section 9.52.020.1155.

(g) “Mechanical Code” means the California Mechanical Code published by the California Building Standards Commission as adopted by reference to Chapter 22.04 and any local amendments thereto.

- (h) “Natural gas” has the same meaning as “Fuel Gas” as defined in the Plumbing Code and in the Mechanical Code.
- (i) “Fuel Gas infrastructure” means natural gas or fuel gas piping, other than service pipe, in or in connection with a building or within the property lines of a parcel, extending from the point of delivery at the gas meter as specified in the Plumbing Code or in the Mechanical Code.
- (j) “Newly-constructed building” means a new structure that has never before been used or occupied for any purpose or removal and replacement of an existing structure, or repair, alteration, modification, addition to, or rehabilitation of an existing structure, where a demolition will occur, as defined Santa Monica Municipal Code Section 9.25.030 (A.1) or (A.2).
- (k) “Permitting authority” means the Building Official or a city employee exercising authority delegated by the Building Official.
- (l) “Plumbing Code” means the California Plumbing Code published by the California Building Standards Commission as adopted by reference to Chapter 8.32 and any local amendments thereto.

**8.38.030 Prohibited Fuel Gas Infrastructure in Newly Constructed Buildings.**

- (a) Fuel Gas Infrastructure is prohibited in Newly Constructed Buildings.
- (b) Notwithstanding Subsection (a), the Permitting Authority may authorize Fuel Gas Infrastructure in a Newly Constructed Building if the Applicant establishes that it is not physically feasible to construct the building without Fuel Gas Infrastructure. For purposes of this exception, it is physically feasible to construct the building without Fuel Gas Infrastructure if an all-electric prescriptive compliance approach is

available for the building under the Energy Code or the building is able to achieve the performance compliance standards under the Energy Code using commercially available technology and an approved calculation method.

(c) When Fuel Gas Infrastructure is permitted for a Newly Constructed Building pursuant to subsection (b), it may be extended to any system, device, or appliance within a building for which an equivalent all-electric system or design is not available. Further, Newly Constructed Buildings with Fuel Gas Infrastructure must also have sufficient electric capacity, wiring, and conduit to facilitate future full building electrification.

(d) The requirements of this Section shall be deemed objective planning standards under Government Code Section 65913.4 and objective development standards under Government Code Section 65589.5.

(e) Authorization of Fuel Gas Infrastructure in a Newly Constructed Building may occur on a case-by cases basis by the Permitting Authority where compliance is not feasible based on the utility being unable to supply adequate power.

**8.38.040 Public Interest Exemption.**

(a) Notwithstanding the requirements of Section 8.38.030(a), minimally necessary and specifically tailored Natural Gas Infrastructure may be allowed in a Newly Constructed Building if the Permitting Authority finds that the use of specifically tailored Fuel Gas Infrastructure serves the public interest. In determining whether the construction of Natural Gas Infrastructure is in the public interest, the Permitting Authority may consider:

- (1) The availability of alternative technologies or systems that do not use natural gas; and
- (2) Any other impacts that the decision to allow Fuel Gas Infrastructure may have on the health, safety, or welfare of the public.
- (b) If the installation of Fuel Gas Infrastructure is granted under a public interest exemption, the Newly Constructed Buildings shall nonetheless be required at the minimum to have sufficient electric capacity, wiring and conduit to facilitate future full building electrification.
- (c) For purposes of this Section, provision of Fuel Gas Infrastructure for cooking appliances in commercial kitchens in restaurants and institutional cooking facilities shall be deemed to be in the public interest provided that the infrastructure is limited to the capacity necessary to operate the appliances as designed. Further, commercial kitchens in restaurants and institutional cooking facilities with Fuel Gas Infrastructure must also have sufficient electric capacity, wiring, and conduit to facilitate future full building electrification.
- (d) For purposes of this Section, provision of Fuel Gas Infrastructure for medical uses, laboratory equipment or clean-rooms in buildings designed for scientific or medical uses shall be deemed to be in the public interest provided that the infrastructure is limited to the capacity necessary for designated medical, laboratory or clean-room areas.

**8.38.050 Appeal of Permitting Authority Decisions.**

Decisions of the Permitting Authority under this Chapter may be appealed to the Building and Fire Life Safety Commission under this section, pursuant to the provisions of Santa Monica Municipal Code 8.08.040.

**8.38.060 Periodic Review of Ordinance.**

Public Works shall review the requirements of this Ordinance every 36 months for ongoing consistency with the California Energy Code and the Energy Commission's triennial code adoption cycle and make a report and recommendation to the City Manager.

SECTION 2. Santa Monica Municipal Code Section 8.08.040(a) is hereby amended as follows:

**8.08.040 Board of Appeal.**

(a) **General.** Pursuant to this Chapter, Section 1002 of the Santa Monica City Charter, the California Building Standards Code, the Building and Fire Life Safety Commission is hereby created as the Board of Appeal. The Building and Fire Life Safety Commission shall also serve as the appellate body for appeals of the determinations of the permitting authority under Chapter 8.38.

Members of the Commission shall be appointed by the City Council to serve a term of four years unless removed for cause. No Commission member shall hold any paid office with the City.

The Commission shall adopt reasonable rules and regulations for conducting investigations and business and shall render all decisions and findings in writing to the responsible official and appellants. Said Commission may also recommend to the appointing authority such new legislation as is consistent therewith.

The Building Officer and/or Fire Marshal or designee shall be an ex-officio member of the Commission and shall act as secretary.

SECTION 3. Any provision of the Santa Monica Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 4. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 5. The Mayor shall sign and the City Clerk shall attest to the passage of the Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. Following its adoption, this Ordinance shall be submitted to the California Building Standards Commission for filing. This Ordinance shall become effective 30 days after submission to the California Building Standards Commission. Building permit applications submitted on or after the effective date of this Ordinance shall be required to comply with the requirements set forth herein.

APPROVED AS TO FORM:

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DOUG SLOAN  
City Attorney