



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 12/17/2024

ITEM NO. 3.

ITEM NO: 3

DATE: December 5, 2024
TO: Mayor and Town Council
FROM: Gabrielle Whelan, Town Attorney
SUBJECT: Adopt An Ordinance to Repeal Town Code Sections 6.120.060, 6.120.070, and 6.120.080 (All Electric Construction Requirements).
Ordinance Title: An Ordinance of the Town Council of the Town of Los Gatos Repealing Section 6.120.060, "All Electric Construction Definitions," Section 6.120.070, "Residential All Electric Construction," and Section 6.120.080, "Nonresidential All Electric Construction" of the Town Code.

RECOMMENDATION:

Adopt an ordinance to repeal Town Code Sections 6.120.060, 6.120.070, and 6.120.080, which codify all-electric construction requirements.

BACKGROUND:

At the regular meeting of December 5, 2024, the Town Council held a public hearing to consider the introduction of an ordinance to repeal Town Code Sections 6.120.060, "All Electric Construction Definitions," Section 6.120.070, "Residential All Electric Construction," and Section 6.120.080, "Nonresidential All Electric Construction," which codify all-electric construction requirements. The Town Council voted unanimously to approve the introduction of the ordinance.

This ordinance is returning to the Town Council for final adoption. The ordinance will take effect 30 days after its adoption.

COORDINATION:

The Community Development Department coordinated with the Town Attorney's Office in the preparation of this report.

Reviewed by: Town Manager and Town Attorney

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SUBJECT: Reach Code Amendments

DATE: December 5, 2024

FISCAL IMPACT:

There is no fiscal impact to the Town associated with adoption of an ordinance to rescind the all-electric construction requirements.

ENVIRONMENTAL ASSESSMENT:

Adoption of this ordinance is exempt pursuant to the “common sense” exemption in that the Town is already subject to the 9th Circuit’s ruling in the Berkeley decision and amending the Town Code to comport with that ruling will not impact the physical environment (CEQA Guidelines Section 15061(b)(3)).

Attachment:

1. Draft Ordinance repealing the Town’s all-electric construction requirements

DRAFT ORDINANCE

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
REPEALING SECTION 6.120.060, "ALL ELECTRIC CONSTRUCTION DEFINITIONS,"
SECTION 6.120.070, "RESIDENTIAL ALL ELECTRIC CONSTRUCTION," AND SECTION
6.120.080, "NONRESIDENTIAL ALL ELECTRIC CONSTRUCTION" OF THE TOWN CODE**

WHEREAS, on November 15, 2022, the Town adopted the California Building and Fire Codes as required by state law; and

WHEREAS, as part of this adoption, the Town Council chose to address greenhouse gas emissions by approving specific amendments, known as Reach Codes, that required all new construction and qualifying major remodels to be fully electric; and

WHEREAS, on January 2, 2024, the Court of Appeals ruled that all-electric ordinances are preempted by the federal Environmental Policy and Conservation Act; and

WHEREAS, in July of 2024, the Restaurant Association contacted the Town regarding the Ninth Circuit ruling and requested that the Town repeal its all-electric ordinance in conformance with the decision; and

WHEREAS, in light of the Ninth Circuit decision, it is recommended that the Town Council repeal the Town's all-electric ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Los Gatos as follows:

SECTION I. Town Code Section 6.120.060, "All Electric Construction Definitions," is repealed.

SECTION II. Town Code Section 6.120.070, "Residential All Electric Construction," is repealed.

SECTION III. Town Code Section 6.120.080, "Nonresidential All Electric Construction" is repealed.

SECTION IV. Severability.

In the event that a court of competent jurisdiction holds any Section, subsection, paragraph, sentence, clause, or phrase in this Ordinance unconstitutional, preempted, or otherwise invalid, the invalid portion shall be severed from this Section and shall not affect the validity of the remaining portions of this Section. The Town hereby declares that it would have adopted each Section, subsection, paragraph, sentence, clause, or phrase in this Section

irrespective of the fact that any one or more Sections, subsections, paragraphs, sentences, clauses, or phrases in this Section might be declared unconstitutional, preempted, or otherwise invalid.

SECTION V. CEQA.

Adopting this Ordinance is not a project subject to CEQA because it can be seen with certainty that it will not impact the environment (CEQA Guidelines Section 15378).

SECTION VI. Publication.

The Town Council hereby directs the Town Clerk to cause this Ordinance or a summary thereof to be published or posted in accordance with Section 36933 of the Government Code of the State of California.

SECTION VII. Effective Date.

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the ____ day of ____, 2024, and adopted by the following vote as an ordinance of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on the _____, 2024. This ordinance takes effect 30 days after it is adopted.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA