



## SARATOGA CITY COUNCIL

**MEETING DATE:** September 4, 2024

**DEPARTMENT:** City Attorney

**PREPARED BY:** Richard Taylor, City Attorney

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**SUBJECT:** Building Code Cleanup Ordinance

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### **RECOMMENDED ACTION:**

Conduct the public hearing, introduce and waive the first reading of an ordinance amending the City Building Code concerning building electrification (sections 16-49.020 , 16-49.030, and 16-49.040) to remove requirements that residential and commercial construction be mostly electric and direct staff to place the ordinance on the consent calendar for adoption at the next regular meeting of the City Council.

### **BACKGROUND:**

As part of the 2022 Building Code update the City adopted amendments to the State of California's Green Building Code to require that residential and commercial projects use electric appliances for space and water heating and clothes drying (gas appliances were allowed for cooking appliances and exterior appliances such as barbeques, firepits and pool heaters). The ordinance was similar to one adopted by the City of Berkeley. The Berkeley ordinance has been challenged in the courts and found to be preempted by federal law. Although Saratoga's ordinance has a narrower scope than the Berkeley ordinance the court's reasoning would likely apply to the Saratoga ordinance as well. Accordingly, staff recommends that the Building Code be amended to remove the described requirements. Many jurisdictions in Santa Clara County have adopted similar amendments or otherwise suspended enforcement of these requirements.

There are alternative approaches to achieve the benefits sought by the 2022 amendments. Staff plans to investigate these options and make a recommendation to the Council as part of the next regular Building Code update in the fall of 2025.

### **ATTACHMENT:**

Attachment A – Building Code Update Ordinance

1820156.1