

TOWN OF LOS ALTOS HILLS  
Staff Report to the City Council

January 18, 2024

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**SUBJECT:** INTRODUCTION OF AN ORDINANCE OF THE TOWN OF LOS ALTOS HILLS REPEALING AND REPLACING CHAPTER 1.10 (GREEN BUILDING STANDARDS CODE) OF TITLE 8 OF LOS ALTOS HILLS MUNICIPAL CODE AND ADOPT BY REFERENCE LOCAL AMENDMENTS THAT ADD LOCAL ENERGY REACH CODE REQUIREMENTS FOR NEW AND EXISTING RESIDENTIAL BUILDINGS.

**FROM:** Jay Bradford, Assistant Community Development Director

**APPROVED:** Peter Pirnejad, City Manager *P.P.*

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**RECOMMENDATION:** Staff recommends the City Council take the following actions:

Waive reading and introduce an Ordinance (Attachment 1) to Repeal and Replace Chapter 1.10 (Green Building Standards Code) of Title 8 (Building Regulations) of Los Altos Hills' Municipal Code (LAHMC) and adopt by reference local amendments that require new residential buildings and substantially altered existing residential buildings to be constructed with zero NOx emission equipment.

**BACKGROUND**

***Climate Action Planning and Previous Reach Code Initiative***

The Town of Los Altos Hills (Town) has focused on sustainability by adopting an updated Climate Action Plan (CAP) on December 15, 2016. The CAP outlines strategies and goals to achieve a reduction in greenhouse gas (GHG) emissions. In 2021, the Council adopted a more aggressive target calling for a 52% reduction in town-wide GHG emissions by 2030. The CAP efforts were led by the Town's Environmental Initiatives Committee (EIC). In October 2021, the EIC also introduced goals to reduce the residential use of fossil fuels and migrate all homes in Los Altos Hills off of natural gas by 2045.<sup>1</sup>

One strategy identified in the CAP to support the Town's emissions reductions is the adoption of local reach codes as part of the California Energy Code (CEC). During the 2019 code cycle, the Council adopted the Town's first local building energy reach code (Ordinance 589).<sup>2</sup> The local ordinance required all newly constructed low-rise residential buildings, new detached accessory dwelling units, and other newly constructed habitable structures to be electrically heated and include electric-readiness provisions for clothes drying and cooking appliances. The all-electric and electric-readiness requirements were re-adopted by the Council for the 2022 code cycle, which became effective on January 1, 2023. In early 2023, the Council included expanding the local

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<sup>1</sup> This goal is in line with California AB 1279, which requires California to achieve "net zero greenhouse gas emissions" (carbon neutrality) as soon as possible, but no later than 2045. Available at [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=202120220AB1279](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1279)

<sup>2</sup> Ordinance 589 was introduced on January 16, 2020 and adopted on February 20, 2020 by the Town Council. <https://efiling.energy.ca.gov/GetDocument.aspx?tn=235508-9&DocumentContentId=68415>

building energy reach code requirements to encompass residential remodel projects in the FY23-24 work plan and directed staff to return with a proposed ordinance for consideration.

### ***Process for Reach Code Adoption***

Every three years, the State implements new building standards, consolidated in Title 24 of the California Code of Regulations, commonly known as the California Building Standards Code (CBSC). Local jurisdictions have the authority to adopt local modifications to building codes. Building code amendments that impose efficiency standards surpassing the minimum requirements outlined in the state building code have come to be known as Reach Codes.

The CBSCs not only require local adoption but also mandate review and approval by one or more state agencies. For example, all amendments to the CBSCs, including energy and green building standards codes, must be reviewed by the State's Buildings Standards Commission (BSC). Prior Reach Code efforts amended California Energy Code standards and required filing with both the BSC and the California Energy Commission (CEC). The CEC mandates that, through cost-effectiveness analyses, code amendments demonstrate financial responsibility and avoid imposing an unreasonable burden on building permit applicants. One distinction from the previous Reach Code efforts is that the proposed amendments are to the California Green Building Standards Code (CALGreen), which does not require additional review by any state agency other than the BSC and mandates set by the CEC are not applicable.

### ***Ninth Circuit Ruling on Berkeley's Gas Ban and Electrification Reach Codes***

In April 2023, the Ninth Circuit Court of Appeals found the City of Berkeley's natural gas ban ordinance preempted by the federal Energy Policy and Conservation Act (EPCA). On January 2, 2024, the Ninth Circuit affirmed the April 2023 decision and denied a petition for rehearing en banc. Due to these findings, enforcement of electrification mandates may now be at risk.<sup>3</sup> It is important to note that alternative building performance standards are being developed in response to the ruling. One such standard is the building air emission standards like those practiced in the City of New York.<sup>4</sup> These performance standards are anticipated to achieve similar GHG reduction results without restricting fuel type.

## **DISCUSSION**

### ***September 14 Study Session: PC/EIC Discussion***

Initial energy reach code policy options were presented at a joint meeting of the EIC and the PC. During the study session both staff and the EIC presented potential existing building reach code options for consideration.

Staff presented two model code options that amend different parts of the building code. The model code options included the following:

1. Option 1, the Statewide Reach Codes Program's "Flexible Path Model Code" establishes a target efficiency score that projects must meet by choosing from a menu of individual efficiency, electrification, and renewables measures. This option amends the California

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<sup>3</sup> See *Ninth Circuit Cans Berkeley Gas Ban under Federal Law*, The National Law Review, April 21, 2023; available at: <https://www.natlawreview.com/article/ninth-circuit-cans-berkeley-gas-ban-under-federal-law>.

<sup>4</sup> See *LOCAL LAWS OF THE CITY OF NEW YORK FOR THE YEAR 2019 No. 97* [https://www.nyc.gov/assets/buildings/local\\_laws/l197of2019.pdf](https://www.nyc.gov/assets/buildings/local_laws/l197of2019.pdf)

Energy Code, is supported by the Statewide Reach Code Cost-effectiveness Studies, and requires CEC approval.

2. Option 2, the Bay Area Reach Code Initiative’s “Time of Replacement and Renovation Model Code” represents electrification and electric-readiness measures integrated during low-cost opportunities within a project scope, such as appliance replacement or major renovation projects.<sup>5</sup> This model code amends CALGreen and does not require CEC approval.

The EIC also presented two reach code policy options to the joint committees. The options are outlined as follows:

1. Option 1, which is based on the “Time of Replacement and Renovation Model Code” from Silicon Valley Clean Energy (SVCE) and the Bay Area Reach Codes Initiative, would add “Substantial Remodels/Additions” to the scope of the existing reach code and amend the existing all-electric language to zero-emission language. The EIC recommended using the Santa Clara County Fire District’s alterations trigger for sprinkler installation.
2. Option 2 would require all the components recommended in EIC’s Option 1 and:
  - i The installation of a zero-emitting heat pump when air conditioning units are installed or replaced,
  - ii The installation of a zero-emitting water heater during addition and alteration projects when there is a water heater replacement.
  - iii Panel replacement/upgrade to 200A.
  - iv Electric-ready wiring in kitchen and laundry renovations.
  - v Prohibit the extension of fuel gas infrastructure in new fireplaces, fire pits, grills, outdoor space heaters, spas, and pools.

Option 2 presented by staff, the “Time of Replacement and Renovation Model Code” aligns with the structure of the final ordinance language proposed by the EIC. The first study session reached a consensus that the EIC’s “Option 1” would be pursued, and direction was given to staff to find a suitable threshold to define Substantial Remodels.

### ***Proposed Amendments to LAHMC Section 8-1.10.02***

The existing reach code policy components outlined in the following section are based on the “Time of Replacement and Renovation Model Code” drafted by SVCE for the EIC in March 2023. Staff is proposing an amendment to CALGreen that will 1) parallel the previously adopted all-electric requirements to “zero NOx emitting”, 2) add a definition for residential substantial alteration (i.e., substantially altered structure) projects, and 3) add electric-readiness requirements for specific appliances when the appliance is included in the remodel scope of work.

The current town standards for new construction include definitions for All-Electric Buildings, Combustion Equipment, Fuel Gas, and a requirement that all new residential building units be constructed as all-electric. Due to the perceived legal risks and uncertainties raised by the Ninth Circuit Decision on Berkeley's Natural Gas Ban, the staff’s intent is to amend Title 8 of the Los Altos Hills Municipal Code. The proposed amendment will parallel the all-electric definition and references with 'zero NOx emission buildings.' The staff also intends to maintain the previously adopted exceptions and electric-readiness requirements for kitchens in new buildings.

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<sup>5</sup> The Bay Area Reach Code Initiative is a collaborative effort between [Peninsula Clean Energy](#) (PCE), [Silicon Valley Clean Energy](#) (SVCE), [East Bay Community Energy](#) (EBCE), Alameda County, [Santa Clara County](#) , and the [San Mateo County Office of Sustainability](#) (OOS).

### ***Substantial Remodel Triggers for Single-family Residential Existing Buildings***

At the recommendation of the EIC and PC, staff researched triggers used in jurisdictions that are similar in size and composition to Los Altos Hills. Staff found that thresholds that trigger substantial remodels are typically defined by project scope and/or valuation. Based on an analysis provided by the Statewide Reach Code Team, the typical threshold includes the removal, replacement, addition, or project valuation that is greater than or equal to 50% or more of the element of the existing building.<sup>6</sup> The jurisdictions referenced in Table 1 have adopted substantial remodel definitions based on similar thresholds.

**Table 1: Thresholds for Substantial Remodel by Jurisdiction**

Los Gatos	Alterations/Additions: 50% or more of the foundation or existing framing
Saratoga	Alterations: 50% or more of the exterior walls and 50% of existing roof structure OR 50% of interior walls
Milpitas	Additions/ Alterations: Greater than 50% foundation or above sill replacement shall be considered new construction.
San Carlos	Alterations/Additions: 50% or more of the foundation or existing framing.
Sunnyvale	Additions/Alterations: Greater than 50% of exterior walls are removed or 50% of wall plate height is raised shall be considered new construction.

It is the staff's intent to utilize a standard that (1) aligns as a regional standard to promote consistency for the local building community and (2) is similar to existing triggers in the Town municipal code. Article 4 Section 10-1.401: Nonconforming Structures, uses language based on a 50% threshold to define Substantially Rebuilt Structures. The language used in this section is as follows:

- i. *“more than fifty (50) percent of the ... structure’s floor area,”*
- ii. *“more than fifty (50) percent of the ... exterior walls”*

Staff is proposing scoping that is based on the existing municipal code trigger for nonconforming structures and provides a similar threshold that neighboring jurisdictions have adopted. The proposed trigger for a residential substantial remodel is: “Any structure that is voluntarily altered such that more than fifty (50) percent of the structure’s permitted floor area is altered, more than fifty (50) percent of the permitted exterior wall area is altered, fifty (50) percent of the structure’s combined wall and floor area is altered, or more than fifty (50) percent of existing structure’s permitted floor area is added.”<sup>7</sup>

### ***Zero NOx Emission Equipment Upgrade Requirements***

The proposed ordinance requires the following appliance upgrades to be “zero NOx emitting equipment”: 1) water heaters, 2) space heating and/or space cooling systems, and 3) clothes dryers. Zero NOx emitting equipment is defined as “Any equipment or appliance that emits no more than 0.0 nanograms of nitrogen oxides (expressed as NOx) per joule of heat and/or light output.

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<sup>6</sup> See Statewide Reach Code Program, “*Substantial Remodels and New Construction Definitions*”, v1.4 at [https://localenergycodes.com/download/1155/file\\_path/fieldList/Review%20of%20Substantial%20Improvement%20Definitions.pdf](https://localenergycodes.com/download/1155/file_path/fieldList/Review%20of%20Substantial%20Improvement%20Definitions.pdf).

<sup>7</sup> See draft LAH Reach Code Ordinance Definitions Section A “Substantially Altered Structure”.

Equipment and appliance uses include, but are not limited to, space heating, water heating, cooking, clothes drying, and lighting.”

### ***Electric-readiness Provisions***

The proposed ordinance outlines provisions for electric readiness in instances where certain appliances are still permitted to use natural gas. The electric-readiness provisions adopted previously will remain. The following gas-fueled appliances would need to include pre-wiring for future transition to electric systems:

- i. Kitchen alterations would need to include a 240v, 50-ampere circuit, and receptacle installed within 3 feet of the cooktop, oven, and/or range location.

### ***Potential Waiver and Exemptions***

The proposed draft ordinance includes a process for an applicant to request a waiver of when electric undergrounding is technically infeasible. Additionally, the staff has incorporated exemptions for existing residential buildings, mirroring the current local reach code for new construction in the Town. These exceptions have been included in response to input from the PC/EIC and Council. The proposed draft ordinance includes the following exemptions for your consideration.

- i. Indoor cooking for residential building projects. When NO<sub>x</sub> emitting equipment is allowed for indoor cooking, electric readiness for indoor cooking equipment is required.
- ii. Outdoor cooking.
- iii. Outdoor fireplaces.
- iv. Portable space heaters.
- v. Generators.
- vi. Pools/spa heaters.
- vii. Program limitations apply to homeowners who are income-restricted or enrolled in certain public assistance programs. These limitations are aligned with PG&E's California Alternate Rates for Energy Program (CARE) and Family Electric Rate Assistance Program (FERA).

### **Effective Date**

The proposed ordinance would take effect thirty (30) days after adoption and would apply to any project for which a development or permit application is filed with the Town as of the effective date of the ordinance.

### **FISCAL IMPACT**

Although there is no fiscal impact to the Town associated with adoption of the reach codes, the cost of construction would increase with the implementation of these CALGreen Amendments.

### **ENVIRONMENTAL REVIEW**

The proposed ordinance amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to "general exemptions" described in Section 15061(b)(3) of the CEQA Guidelines since the ordinance amendments would not have any significant effects on the environment.

### **ATTACHMENTS**

1. Draft Reach Code Ordinance

