



Item 14 – Resolution Suspending Reach Code Enforcement City Council

February 26, 2024

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Background

- Since 2019 more than 70 US cities/states have adopted incentives or requirements for all-electric construction
- The City adopted its Reach Code Nov 2022, effective Jan 2023
 - Requires all-electric design for new buildings with no exceptions
 - Applies to some types of remodels
- City's existing code exceeds the State's Code, which:
 - Requires significant energy efficiency, making it far easier to comply with heat pump space and water heating
 - Mixed-fuel homes would require large solar and storage systems
 - Requires electrification readiness for mixed-fuel homes



Legal Challenges to Building Electrification Laws

- *California Restaurant Association v. City of Berkeley*
 - Challenge to Berkeley's ban on gas piping in new construction
 - Final 9th Circuit decision (1/2/2024) invalidated Berkeley's ban
 - Berkeley has 90 days to seek review in the U.S. Supreme Court
- Implications for Reach Codes in 9th Circuit Jurisdiction
 - 9th Circuit held that Federal Energy Policy and Conservation Act (EPCA) preempts state and local regulations for covered products
 - All-electric codes are very likely preempted
- Project applicants in Palo Alto are requesting clarification of the City's regulations



Other Cities Actions

- At least seven cities have suspended enforcement of their all-electric Reach Codes
 - Staff is not aware of any jurisdiction continuing enforcement
- Some cities have adopted alternatives
 - Zero NOx Code (Town of Los Altos Hills)
 - Uses State code section authorizing local agencies to establish air pollution standards stricter than State/Federal standards
 - One Margin Code (San Luis Obispo, Santa Cruz, San Jose)
 - Applies a single efficiency standard to all-electric and mixed-fuel buildings
 - Takes source energy into account (easier to meet with all-electric design)



Staff Recommendation

- Staff recommends suspending enforcement of Palo Alto's all-electric Reach Code
- Once enforcement is suspended, new construction would be subject to the State's Code
- Staff also recommends Council direct staff to pursue the One Margin Code approach for fall adoption
 - Staff evaluating resources required
- This code would apply through the end of 2025, when the 2026 – 2028 code cycle begins
- Staff can evaluate alternatives to the One Margin code when developing recommendations for the 2026-2028 code cycle



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