

From: [David Coale](#)
To: [Council, City](#); [Shikada, Ed](#); [Abendschein, Jonathan](#); [Lait, Jonathan](#); [Eggleston, Brad](#)
Subject: Suspension of all electric code
Date: Monday, February 26, 2024 9:02:21 AM

CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.

Dear Mayor and Council members,

It is too bad that Palo Alto is suspending its all electric code for what is a technicality in the law suit brought against Berkeley for their ban of gas piping in new buildings. Berkeley is correct in calling out the health issues with gas use in buildings. The BAAQMD has passed a ruling that new appliances should produce zero Nox starting in 2027¹, due to health issues with the combustion of natural gas. This rule however did not address gas cooktops in that BAAQMD does not address indoor air quality. This is, in my mind, another unfortunate technicality as gas cooktops produce much worse air quality and potential health issues (<https://www.mothersoutfront.org/news/gas-stoves-health-and-air-quality-impacts-and-solutions/>)² than the other gas appliances in the home.

With Staff's recommendations, Palo Alto will have three different sets of rules for gas use in the home within a year's time frame. Another unfortunate outcome of a technicality where no other city, accepting Berkeley, has had a problem with their gas bans. It would be best to just keep the codes the way they are until the change is ready to be put in place, reducing extra work and confusion of having three different rules.

In any event, the Development Center should be reminding all applicants that are looking to install gas cooktops, that according to real estate law, any item or condition that might affect the cost of a home upon sale, must be disclosed to the buyer. This would include gas cooktops as multiple studies have found that childhood asthma rates are 20% higher in homes with gas cooktops³.

Sincerely,

David Coale

¹ FAQ on BAAQMD ruling for zero Nox appliances:
https://www.baaqmd.gov/~media/dotgov/files/rules/reg-9-rule-4-nitrogen-oxides-from-fan-type-residential-central-furnaces/2021-amendments/documents/20230522_faq_appliance-rules_final-pdf?rev=b425fe938f644fa7839f8d938cad41fd

² Study by Physicians for Social Responsibility, Rocky Mountain Institute, Sierra Club and Mothers Out Front. Many references cited in the appendix of this report.

<https://www.mothersoutfront.org/news/gas-stoves-health-and-air-quality-impacts-and-solutions/>

³ Population Attributable Fraction of Gas Stoves and Childhood Asthma in the United States:

<https://www.mdpi.com/1660-4601/20/1/75>

From: [Andrea Eckstein Gara](#)
To: [Council, City](#)
Cc: [Hilary Glann](#); aashton@gmail.com
Subject: Comment RE: Item 14, Feb. 26 Council Regular Meeting
Date: Friday, February 23, 2024 5:39:30 PM

CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.

Palo Alto City Council Members,

We, as environmentally concerned community groups, have been watching developments after the Berkeley 9th Circuit Court of Appeals decision closely. While we acknowledge that the city has an incentive to be conservative and avoid lawsuits, we also know that we cannot allow the chilling effect of this case to slow our response to climate change. Our S/CAP goals remain in place, and 2030 is not far away. Scientists have confirmed this past year that 2030 is indeed the date by which steep emissions cuts must be made.

We were also disheartened to see recently that Palo Alto did not meet a number of our climate goals for the past year, putting our 80 x 30 goal further in jeopardy. As Council considers One Margin as the model to replace our all-electric reach codes, here are some other steps that we would like to see taken:

1. The Berkeley decision focused on *EPCA covered indoor appliances*. **The city should continue to enforce parts of the reach codes that are not affected by the ruling, for example gas lines to outdoor appliances, such as fire pits and BBQs.**
2. We all know that, despite this set-back, electrification is coming due to state and regional regulations, such as BAAQMD and CARB rules on NOX-emitting appliance sales. **The city should continue to enforce and expand electrification readiness in remodels and new construction.**
3. Studies have shown that building electric-only multi-family homes is less expensive than dual-fuel homes. **The city needs to encourage developers, through incentives and through a streamlined permitting process, to build all multi-family homes with only electric power.** This could be done by utilizing bonus FAR or other development incentives if projects agree to electrification. This could apply to the approximately 2,000 Builders Remedy units that have been submitted to the city.
4. We are now entering a window of backsliding on our electrification goals, as new construction will continue without electrification mandates. The city should **enact One**

Margin quickly to contain the damage.

5.

Nevertheless, damage will be done as some residents are likely to opt for dual-fuel new construction. The city should consider **other steps that could be taken to make up for this S/CAP set-back.**

- a. Create near-term incentive (rebate) for replacement of older gas furnaces with heat pump HVAC systems, followed by development of a heat pump HVAC program modeled on the HPWH program.
- b. Fast-track action on other S/CAP goals, such as building housing near transit, increasing allowable density near transit, increasing the number of bike lanes/facilities and pedestrian connections within the city, charging for parking, and requiring unbundled parking at new developments, etc.
- c. Widen Tier 1 electricity pricing to cover more electric consumption, so that whole home electrification + EV ownership is not penalized.
- d. Continue appealing to the State for a legislative fix to the Berkeley setback.
- e. Lean into the pollution arguments against burning fossil fuels: ramp up the public awareness campaign about health dangers of burning methane gas inside the home, and in the community.
- f. f) Develop a public awareness campaign on how to use batteries large and small (including using the batteries in electric vehicles) to provide power to a home during an outage and/or develop a battery/backup strategy at different substations to keep a low level of power available at all Palo Alto homes.

Finally, the Berkeley decision does not address the gas distribution system, so **the ruling has no bearing on setting a gas sunset date.** Here is a quote from the [9th circuit opinion](#):

“...our holding here has nothing to say about a State or local government regulation of a utility’s distribution of natural gas to premises where covered products might be used.” (end quote)

A gas sunset date, which is specified in our S/CAP goals, should be set quickly for ease of planning and to accelerate the switch to electric buildings, getting us back on track

to meet our sustainability pledges.

Thank you,
350 SV Palo Alto
Palo Alto Forward

From: bretande@pacbell.net
To: [Council, City](#)
Subject: Temporary Moratorium on Reach Code Enforcement, Feb 26 Council Agenda item 14
Date: Friday, February 23, 2024 9:17:47 AM

Some people who received this message don't often get email from bretande@pacbell.net. [Learn why this is important](#)

CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.

Subject: Temporary Moratorium on Reach Code Enforcement, [Feb 26 Council Agenda item 14](#)

Honorable Council Members and City Staff,

City staff is to present its proposal for a temporary moratorium on reach code enforcement at the next Council meeting. Their idea to switch to implement a One Margin reach code as soon as possible looks like a good way to minimize the duration of the suspension and avoid continued litigation risks.

We recommend the following actions to minimize the risk of backsliding on our new building electrification efforts.

- Consider implementing a “stranded gas asset” fee to pay for the permitting, installation and eventual decommissioning of new stranded gas assets that will unnecessarily burden existing gas customers. The state base code already requires mixed fuel buildings to be all-electric as the switch to electric appliances is inevitable while we transition away from gas.
- Clearly communicate that the suspension is temporary and limited. The suspension of the reach code is a temporary measure to avoid the risk of litigation created by a surprise court ruling. It also appears that the suspension should only apply to the extension of gas piping from existing meters to points within the new building. The staff report indicates that the city is under no obligation to continue or expand service to gas meters or to connect new gas meters:
 - From the Staff Report, p6: “Rather, the Ninth Circuit stated that its decision is limited: the EPCA prevents Berkeley from banning gas piping from the point of delivery at the meter within new construction buildings. The Circuit stated that its holding does not address the question of whether Berkeley has any obligation to maintain or expand the availability of a utility’s delivery of gas to meters effectively leaving that question open for now.”
- Use the announcement of the moratorium as an opportunity to reiterate the benefits of the city’s electrification investments in our community.
 - The city is establishing all-electric building codes in order to meet the

changing needs and desires of the Palo Alto community

- CPAU is helping customers avoid further investment in obsolete gas equipment and go all-electric in the interest of safety, health, efficiency, reliability, resiliency and economic savings. At the planning stage, a notice regarding the more serious indoor health risks of gas stoves ([reference link](#)) may additionally help people to avoid them in the first place.
- CPAU is investing over \$300M to maintain and modernize our electric grid to support a complete electric transition for all buildings, new and existing, by 2030.
- The most important steps for CPAU and building owners to take now is to avoid the installation of obsolete gas infrastructure that burdens us with extra costs and locks in damaging climate-harming carbon pollution for years.

Thank you for considering our perspective.

Carbon Free Palo Alto

From: [Ryan Palmer](#)
To: [Council, City](#)
Cc: [Chris Wade](#); [John Beard](#); [Lait, Jonathan](#); [Yang, Albert](#)
Subject: Comment Letter // February 26, 2024 Meeting - Agenda Item 14 (Suspension of All-Electric Code Sections)
Date: Thursday, February 22, 2024 1:18:00 PM
Attachments: [CRW Comment Letter re Gas Ban Moratorium \(02-22-24\) \(01342810xA4507\).PDF](#)

Some people who received this message don't often get email from ryan@sslfirm.com. [Learn why this is important](#)

CAUTION: This email originated from outside of the organization. Be cautious of opening attachments and clicking on links.

Good Afternoon – please see the attached comment letter from Christine R. Wade regarding the above referenced subject matter. Let us know if you have any questions or have trouble opening the attached.

Thank you,

RYAN PALMER | *PARALEGAL* | **SSL LAW FIRM LLP** | 505 Montgomery Street, Suite 620 | San Francisco, CA 94111 |
Direct: 415.243.2680 | Cell: 415.652.0503 | Fax: 415.814.6401 | Email: ryan@sslfirm.com

This email and any attachments may contain material that is confidential, privileged and/or attorney work product for the sole use of the intended recipient. Any review, reliance or distribution by others or forwarding without express permission is strictly prohibited. If you are not the intended recipient, please contact the sender and delete all copies. Legal Advice Disclaimer: You should recognize that responses provided by this e-mail means are akin to ordinary telephone or face-to-face conversations and do not reflect the level of factual or legal inquiry or analysis which would be applied in the case of a formal legal opinion. A formal opinion could reach a different result.



505 MONTGOMERY STREET, SUITE 620
SAN FRANCISCO, CA 94111
TELEPHONE: 415.814.6400
FACSIMILE: 415.814.6401
business@sslfirm.com

February 22, 2024

CHRISTINE R. WADE
DIRECT TEL: 415.243.2088
chris@sslfirm.com

VIA EMAIL ONLY

City Council
CITY OF PALO ALTO
Office of the City Clerk – City Hall, 7th Floor
250 Hamilton Avenue
Palo Alto, CA 94301
City.Council@cityofpaloalto.org

***RE: FEBRUARY 26, 2024 MEETING, AGENDA ITEM 14;
SUSPENSION OF ALL-ELECTRIC CODE SECTIONS***

Dear City Council Members,

We write on behalf of the owner of residential real property at 1325 Parkinson Avenue, Palo Alto, California 94303 in support of City staff’s recommendation on Agenda Item 14¹ for the City Council to adopt a resolution suspending enforcement of Municipal Code sections 16.14.090, 16.14.110, and 16.14.300 (“**All-Electric Requirements**”).

And, as discussed further below, we also write to confirm our understanding of the impact of the draft resolution, if adopted as is, on previously-issued building permits that required the removal of a property’s gas connection and meter and with which the property owner has already complied.

I. Recent federal case law compels the City to suspend enforcement of the All-Electric Requirements.

We believe that the draft resolution is not only consistent with the recent decision by the United States Court of Appeals for the Ninth Circuit in *California Restaurant Association v. City of Berkeley*,² it is compelled by it due to the similarity between Berkeley’s prohibition and the City’s All-Electric Requirements.

Like Berkeley’s prohibition on “natural gas infrastructure” (i.e., “fuel gas piping”), Palo Alto’s All-Electric Requirements prohibit plumbing for combustion equipment in newly

¹ Item 14 of the February 26, 2024 agenda: “Adoption of a Resolution Suspending Enforcement of Municipal Code Sections 16.14.090, 16.14.110 and 16.14.300 Requiring All-electric Construction and Direction to Staff to Commence Work on Local Amendments to the California Energy Code Establishing a One Margin Standard. CEQA Status – Not a Project.”

² Case No. 21-16278, filed on April 17, 2023, as amended January 2, 2024 (“*CRA v. Berkeley*”).

constructed buildings. (The All-Electric Requirements also prohibit such plumbing for existing buildings undergoing alterations or additions.) The *CRA v. Berkeley* court reasoned that the Berkeley prohibition was a building code that prohibits consumers from using natural gas-powered appliances. The All-Electric Requirements cannot be reasonably distinguished from the Berkeley prohibition—both concern gas piping and both can be considered “building codes” as discussed in *CRA v. Berkeley*.

Like City staff, we believe that “[g]iven this similarity, the City of Palo Alto faces legal risk if it were to continue enforcement of its blanket prohibition on natural gas plumbing in new buildings.” (City Council Staff Report for Item 14.)

II. Impact on previously-issued building permits.

The draft resolution states, “This moratorium on enforcement shall apply to all applications for building permits or other development project entitlements including, without limitation, currently pending applications, new applications filed after adoption of this Resolution, requests for modification of pending applications, and applications of previously-issued permits or entitlements.” (Section 1.)

Our understanding is that the resolution would allow for property owners with previously-issued building permits for alterations or additions to their homes to re-install gas piping (and meters, etc.) for gas-powered appliances, even if they had previously removed such piping in accordance with their permits. We believe our position is supported by the Ninth Circuit’s decision in *CRA v. Berkeley*, and by City staff.³

We ask that the Counsel and/or staff confirm our understanding and comment on the steps such owners should take to reinstall gas piping.

Very truly yours,

SSL LAW FIRM, LLP



Christine R. Wade

cc: Client
Jonathan Lait (jonathan.lait@cityofpaloalto.org)
Albert Yang (Albert.Yang@CityofPaloAlto.org)
[all via email]

³ As stated in the City Council Staff Report, “If adopted by Council, the Resolution would apply to pending and future development applications, including retrofits to add gas to already-constructed buildings, and to requests to modify previously-issued permits.”