

**CITY OF SAN MATEO
DRAFT ORDINANCE**

AMENDING CHAPTER 23.24, "ENERGY CODE," OF TITLE 23, "BUILDING AND CONSTRUCTION," OF THE SAN MATEO MUNICIPAL CODE TO REQUIRE NEW RESIDENTIAL BUILDINGS AND BUILDINGS WITH OFFICE USE BE ALL-ELECTRIC

WHEREAS, the City's Climate Action Plan recommended that the City review local amendments to the California Energy Code to promote increased energy efficiency and the use of renewable energy sources; and

WHEREAS, on August 19, 2019, the City Council adopted the California Energy Code, 2019 Edition, with local amendments to require solar installation on new nonresidential buildings and encourage building electrification in new single family and duplex homes and buildings with office use; and

WHEREAS, the City Council identified additional local amendments to further reduce greenhouse gas emissions in new construction in alignment with the City's Climate Action Plan; and

WHEREAS, the City Council recommends adopting local amendments to require new residential buildings and buildings with office use be all-electric; and

WHEREAS, these local amendments would replace the City's previously adopted reach codes encouraging building electrification in new single family and duplex homes and buildings with office use; and

WHEREAS, the City has completed an analysis and has determined that the requirements of the local amendments to the California Energy Code would provide a positive cost benefit to new construction within the City of San Mateo; and

WHEREAS, California Health and Safety Code Section 17958 requires that the City, in order to make local amendments, find that the local amendments are reasonably necessary due to local climatic, geographical, or topographical conditions; and

WHEREAS, the City's Section 17958 findings are attached as Exhibit A to this Ordinance.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF SAN MATEO ORDAINS AS FOLLOWS:

Section 1. Chapter 23.34, "Energy Code," of Title 23 "Buildings and Construction," of the San Mateo Municipal Code is hereby amended to read:

CHAPTER 23.24 ENERGY CODE

Sections:

23.24.010 Adoption

23.24.020 Local Amendment to Definitions

23.24.030 Local Amendment Regarding Mandatory Solar Installations

23.24.040 Local Amendment Regarding All-Electric Requirements for Residential Buildings and Buildings with Office Use

23.24.050 Infeasibility Exemption

23.24.060 Expiration

23.24.010 ADOPTION

(a) The California Energy Code, 2019 Edition, Title 24, Part 6 of the California Code of Regulations, as adopted and amended by the State of California, hereinafter called "Energy Code," is adopted as the rules, regulations and standards within this City as to all matters therein except as hereinafter modified or amended for so long as the 2019 Edition of the Building Code is in effect;

(b) One copy of the Energy Code shall at all times be kept on file in the office of the City Clerk.

23.24.020 LOCAL AMENDMENT TO DEFINITIONS

Subchapter 1, "All Occupancies – General Provisions," Section 100.1(b), of the state Energy Code is amended to add the following definitions:

Accessory building shall have the meaning set forth in Section 27.04.010 of the City of San Mateo Municipal Code.

Accessory dwelling unit shall mean an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons and which is approved in conformance with Government Code Section 65852.2 and Chapter 27.19 of the City of San Mateo Municipal Code.

Affordable housing means housing that meets either of the following criteria:

(a) housing that is affordable to very low-income, low-income, or moderate-income households, or designated as 100% for senior households. Very low-income, low-income, and moderate-income households have the meaning set forth in the Health and Safety Code sections 50105, 50079.5, 50093, respectively. Senior households means households composed of qualifying residents as defined in Section 51.3 of the Civil Code; or

(b) housing that meets the criteria of the Low-Income Housing Tax Credit Project or Department of Housing and Urban Development programs that assist low-income and moderate-income households.

All-electric building or all-electric design is a building or building design that uses a permanent supply of electricity as the only source of energy for space conditioning (including heating and cooling), water heating (including pools and spas), cooking appliances, and clothes drying appliances, and has no natural gas or propane plumbing installed at the building.

Mixed-fuel building or mixed-fuel design is a building or building design that uses natural gas or propane as fuel for space heating, water heating (including pools and spas), cooking appliances or clothes drying appliances or is plumbed for such equipment.

23.24.030 LOCAL AMENDMENT REGARDING MANDATORY SOLAR INSTALLATIONS

Subchapter 5, “Nonresidential, High-rise Residential, and Hotel/Motel Occupancies – Performance and Prescriptive Compliance Approaches for Achieving Energy Efficiency,” Section 140.0(b), of the state Energy Code is amended to include:

Solar photovoltaic systems shall be installed as follows:

(a) New residential buildings four stories or more shall provide a minimum of a 3-kilowatt photovoltaic system.

(b) New non-residential buildings with less than 10,000 square feet of gross floor area shall provide a minimum of a 3-kilowatt photovoltaic system.

(c) New non-residential buildings greater than or equal to 10,000 square feet of gross floor area shall provide a minimum of a 5-kilowatt photovoltaic system.

Exception: As an alternative to a solar photovoltaic system, all of the building types listed above may provide a solar hot water system (solar thermal) with a minimum collector area of 40 square feet.

23.24.040 LOCAL AMENDMENT REGARDING ALL-ELECTRIC REQUIREMENTS FOR RESIDENTIAL BUILDINGS AND BUILDINGS WITH OFFICE USE

Subchapter 2 “All Occupancies—Mandatory Requirements For The Manufacture, Construction And Installation Of Systems, Equipment And Building Components” is amended to add a new section 110.13 “All Electric Buildings.” Section 110.13 “All Electric Buildings” shall read as follows:

All newly constructed office buildings and residential buildings shall be designed, constructed, and equipped as All-Electric Buildings.

Exception to Section 110.13. Low-rise and high-rise multifamily buildings that consist of 100% affordable housing shall be exempt from the all-electric building provisions of this section. For purposes of this exception, “affordable housing” is defined in Section 100.1(b).

Exception to Section 110.13. Accessory Buildings and Accessory Dwelling Units shall be exempt from the all-electric building provisions of this section. For purposes of this exception, “accessory building” and “accessory dwelling unit are defined in Section 100.1(b).

23.24.050 INFEASIBILITY EXEMPTION

(a) Exemption. If an applicant believes that circumstances exist that makes it infeasible to meet the requirements of this Chapter, the applicant may request an exemption from the Building Official or designee at the time of planning application submittal. In applying for an exemption, the burden is on the applicant to show infeasibility. The applicant shall indicate the maximum threshold of compliance he or she believes is feasible to fully comply with this Chapter.

(b) Infeasibility. Circumstances that constitute infeasibility include, but are not limited to the following:

(1) There is a lack of commercially available materials and technologies to comply with the requirements of this Chapter;

(2) Applying the requirements of this Chapter would effectuate an unconstitutional taking of property or otherwise have an unconstitutional application to the property.

(c) Granting of Exemption. If the Building Official or designee determines that it is infeasible for the applicant to fully meet the requirements of this Chapter based on the information provided, the Building Official or designee, shall determine the maximum feasible threshold of compliance reasonably achievable for the project. The decision of the Building Official or designee shall be provided to the applicant in writing. If an exemption is granted, the applicant shall be required to comply with this Chapter in all other respects and shall be required to achieve, in accordance with this Chapter, the threshold of compliance determined to be achievable by the Building Official or designee.

(d) Denial of Exemption. If the Building Official or designee determines that it is reasonably possible for the applicant to fully meet the requirements of this Chapter, the request shall be denied and the Building Official or designee shall so notify the applicant in writing. The project and compliance documentation shall be modified to comply with this Chapter prior to further review of any pending planning or building permit application.

(e) Appeals of Exemption Denial. If denied the infeasibility exemption, the applicant may appeal in writing to the Community Development Department (CDD) Director. The CDD Director will consider the information provided and render a written decision regarding infeasibility based on the factors set forth in this Chapter. The decision of the CDD Director shall be final.

23.24.060 EXPIRATION

These local code amendments shall sunset when the California Energy Code, 2019 Edition, is no longer in effect.

Section 2. The Council adopts the findings supporting the local amendments to the California Energy Code, 2019 Edition, attached hereto as Exhibit A and incorporated herein by reference.

Section 3. Environmental Determination. In accordance with California Environmental Quality Act (CEQA) Guidelines, section 15308, adoption of this Ordinance is categorically exempt from CEQA, because it imposes stricter energy efficiency requirements and is a regulatory action authorized by state law and intended to protect the environment.

Section 4. Severability. In the event any section, clause or provision of this ordinance shall be determined invalid or unconstitutional, such section, clause or provision shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

Section 5. Publication. This Ordinance shall be published in summary in a newspaper of general circulation, posted in the City Clerk's Office, and posted on the City's website, all in accord with Section 2.15 of the City Charter.

Section 6. Legislative History and Effective Date. This ordinance was introduced on Clerk to complete., and adopted on Clerk to complete., and shall be effective January 1, 2021.

Exhibit A

FINDINGS SUPPORTING LOCAL AMENDMENTS TO CALIFORNIA ENERGY CODE, 2019 EDITION

Section 17958 of the California Health and Safety Code provides that the City may make changes to the provisions in the uniform codes that are published in the California Building Standards Code. Sections 17958.5 and 17958.7 of the Health and Safety Code require that for each proposed local change to those provisions in the uniform codes and published in the California Building Standards Code which regulate buildings used for human habitation, the City Council must make findings supporting its determination that each such local change is reasonably necessary because of local climatic, geological, or topographical conditions.

Local building regulations having the effect of amending the uniform codes, which were adopted by the City prior to November 23, 1970, were unaffected by the regulations of Sections 17958, 17958.5 and 17958.7 of the Health and Safety Code. Therefore, amendments to the uniform codes which were adopted by the City Council prior to November 23, 1970, and have been carried through from year to year without significant change, need no required findings. Also, amendments to provisions not regulating buildings used for human habitation, including amendments made only for administrative consistency, do not require findings.

Code: California Energy Code

Section(s)	Title	Add	Deleted	Amended	Justification (See below for keys)
Subchapter 1, Section 100.1	Definitions and Rules of Construction	X			A, B
Subchapter 2, Section 110.13	All Electric Buildings	X		X	A, B
Subchapter 5, Section 140.0	Performance and Prescriptive Compliance Approaches			X	A, B
Subchapter 8, Section 150.1	Performance and Prescriptive Compliance Approaches for Low-Rise Residential Buildings			X	A, B

Key to Justification Supporting Amendments to Title 24 of the California Code of Regulations

- A. This amendment is justified on the basis of a local **climatic** condition. Failure to address and significantly reduce greenhouse gas (GHG) emissions could result in rises in sea level, including in San Francisco Bay, that could put at risk City homes and businesses, public facilities, and Highway 101 (Bayshore Freeway), particularly the mapped Flood Hazard areas of the City. Energy efficiency and the use of renewable energy sources are key components in reducing GHG emissions, and construction of more energy efficient buildings with dedicated renewable energy installations can help the City of San Mateo reduce its share of the GHG emissions that contribute to climate change. The burning of fossil fuels used in the generation of electric power and heating of buildings contributes to climate change, which could result in rises in sea level, including in San Francisco Bay, that could put at risk City homes and businesses, public facilities, and Highway 101.
- B. Energy efficiency enhances the public health and welfare by promoting the **environmental** and economic health of the City through the design, construction, maintenance, operation and deconstruction of buildings and sites by incorporating green practices into all development. The provisions in this Chapter are designed to achieve the following goals:
- (a) Increase energy efficiency in buildings;
 - (b) Increase resource conservation;
 - (c) Provide durable buildings that are efficient and economical to own and operate;
 - (d) Promote the health and productivity of residents, workers, and visitors to the city;
 - (e) Recognize and conserve the energy embodied in existing buildings; and
 - (f) Reduce disturbance of natural ecosystems.