

Existing Building Decarbonization Ordinance

In recognition of the significant contribution that methane gas use in buildings makes to climate change, Peninsula Clean Energy, Silicon Valley Clean Energy, and East Bay Community Energy encourage all member jurisdictions to consider adopting a combination of codes, incentives, and programs to decarbonize existing buildings.

The following model code serves as a menu of regulatory options for jurisdictions to consider when customizing a code through stakeholder discussions. While the Model Code *is* intended to be broad and comprehensive, it is *not* intended to be a recommendation toward all jurisdictions to adopt every element. Each jurisdiction will need to carefully consider its unique circumstances, demographics, resources, and capabilities before adopting a code. In addition, all jurisdictions should consider the costs of complying with codes and the availability of complementary resources at its disposal, to achieve code compliance and ensure that their code produces equitable and just outcomes.

While the climate crisis is undeniably a serious threat, it was created over the course of multiple generations and will not likely be reversed in a single year with a single ordinance. It is essential that jurisdictions take steps that they realistically can successfully implement, in order to build a momentum throughout the Bay Area that can proliferate throughout the state, nation, and beyond.

Enumeration is generic and intended to serve as structural guidance when integrating with the municipal code, and comments provide explanatory notes.

Version Date	Summary of Updates
June 22, 2022	1st public draft
August 12, 2022	Included preamble from Peninsula Clean Energy, Silicon Valley Clean Energy and East Bay Community Energy

CHAPTER 10.100 – EXISTING BUILDING DECARBONIZATION

10.100.010 Applicability

- A. The requirements of this Chapter shall apply to building permits, sale of property, appliance upgrades, and fuel gas infrastructure located in whole or in part within the City.
- B. The prohibition of *fuel gas infrastructure* shall apply to permit applications on or after the effective date of this Chapter, and in perpetuity. Any new appliances installed falling under the scope of this Chapter shall be powered by electricity only.
- C. The requirements of this Chapter shall not apply to the use of portable propane appliances for outdoor cooking or heating.
- D. This chapter shall in no way be construed as amending California Energy Code requirements under California Code of Regulations, Title 24, Part 6, nor as requiring the use or installation of any specific appliance or system.

10.100.020 Definitions

- A. "Appliance upgrade" shall be defined as any appliance installation, relocation, or replacement.
- B. "Commercial food heat-processing equipment" shall be defined as equipment used in a food establishment for heat-processing food or utensils and that produces grease vapors, steam, fumes, smoke, or odors that are required to be removed through a local exhaust ventilation system, as defined in the California Mechanical Code.
- C. "Fuel Gas" shall be defined as natural, manufactured, liquefied petroleum, or a mixture of these, as defined in the California Mechanical Code.
- D. "Fuel gas infrastructure" shall be defined as piping, other than service pipe, in or in connection with a building, structure or within the property lines of premises, extending from the point of delivery at the gas meter, service meter assembly, outlet of the service regulator, service shutoff valve, or final pressure regulator, whichever is applicable, as defined in the California Mechanical Code.
- E. "Repair" shall be defined as the reconstruction, replacement, or renewal of any part of an existing building for the purpose of its maintenance or to correct damage, as defined in the California Existing Building Code.

10.100.030 Electric Appliances Required in Appliance Upgrades

- A. Space cooling *appliance upgrades* shall also use electricity for space heating, unconnected to *fuel gas infrastructure*. Any other space heating system serving the space shall be removed or configured to provide supplemental heat.
EXCEPTION: Where the scope of the *appliance upgrade* includes replacing or relocating an existing space cooling appliance with capacity of greater than 360,000 Btu/h.
- B. No later than January 1, 20XX, water heaters, as defined in the California Mechanical Code, including for use in pools and spas, shall be all-electric, unconnected to fuel gas infrastructure, and meet the requirements of the California Energy Code during *appliance upgrades*.
EXCEPTION 1: Where the existing water heater is served by fuel gas infrastructure, is instantaneous, serves an area greater than 500 square feet, and the existing water heater is in a location that is smaller than 2.5 feet by 2.5 feet wide and 7 feet tall including required setbacks.
EXCEPTION 2: Appliances installed that have a demand of over 500 gallons/day of hot water usage.
EXCEPTION 3: Where the *appliance upgrade* is serving an existing pool.
EXCEPTION 4: Water heating systems served by an existing solar hot water system.
- C. No later than January 1, 20XX, cooking *appliance upgrades* shall not be connected to *fuel gas infrastructure*.
EXCEPTION: *Commercial food heat-processing equipment*.
- D. No later than January 1, 20XX, clothes drying *appliance upgrades* shall not be connected to *fuel gas infrastructure*.
- E. No later than January 1, 20XX, space heating *appliance upgrades* shall not be connected to *fuel gas infrastructure*.
- F. Alterations or additions that involve or require an increase to the capacity of electrical panels or transformers as part of the scope, the electrical panel shall include reserved physical space for

overcurrent protection devices, and transformers shall include reserved electrical capacity, as calculated per California Electric Code Section 220 for the following current or proposed appliances, as applicable to the project site, that will not be connected to *fuel gas infrastructure*:

1. Electric water heaters meeting the requirements of the California Energy Code.
2. Electric space heater and air-conditioner meeting the requirements of the California Energy Code.
3. Electric pool and/or spa water heater.
4. Electric clothes dryer.
5. Electric cooking equipment.
6. Electric vehicle charger

EXCEPTION 1: Buss bar electrical capacity shall not be required to exceed the proposed utility electrical service to the building. Capacity and overcurrent protection spaces shall be reserved in the priority listed above to the extent allowable under the proposed buss bar capacity.

EXCEPTION 2: Reserved electric vehicle charger panel capacity may be shared with one of the following: water heater, clothes dryer, or cooking equipment.

- G. Existing *fuel gas infrastructure* shall not be extended to any system or device within the building or building property. Inactive *fuel gas infrastructure* shall not be activated or otherwise operated.

ALTERNATIVE: 10.100.030 Electric-Ready Required in Appliance Upgrades

A. Water heaters, as defined in the California Mechanical Code, including for use in pools and spas, shall have a 240 volt, 30 ampere circuit and receptacle installed within 6 feet of appliance location.

B. Cooking *appliance upgrades* shall have a 240 volt, 50 ampere circuit and receptacle installed within 6 feet of appliance location.

EXCEPTION: *Commercial food heat-processing equipment*.

C. Clothes drying *appliance upgrades* shall have a 240v, 30 ampere circuit and receptacle installed within 6 feet of appliance location.

10.100.040. Exemptions

The following are exempt from the provisions of Article 10.100.030.

- A. Where meeting the provisions of this Article would necessitate an increase in capacity for an electrical panel, feeders, transformer, or electrical service that is not part of the *appliance upgrade* scope, in order to meet the requirements of the California Electrical Code. To qualify for this exception, applicant must provide a calculation conforming to the California Electrical Code.
- B. Subsidized Housing
1. Dwelling Units, regardless of ownership, for which the Rents are subsidized or regulated by federal law or by regulatory agreements between a Landlord and (a) the City, (b) the Housing Authority, or (c) any agency of the State of California or the Federal Government. If a Dwelling Unit no longer qualifies for the full or partial exemption under this Section, for

example, the Landlord withdraws from a subsidy program or a regulatory agreement expires and/or is not renewed, the Dwelling Unit will immediately be subject to all provisions of this Article.

2. Dwelling Units owned by the Housing Authority.
 3. Rooms in a building or Dwelling Unit that provides a structured living environment that has the primary purpose of helping formerly homeless persons obtain the skills necessary for independent living in permanent housing and where occupancy is limited to a specific period of time and where the occupant has been informed in writing of the temporary nature of the arrangement at the inception of the occupancy.
 4. Houseboats.
- C. Economic hardship exemptions shall be provided if the replacement cost for an all-electric system, including all incentives, is greater than 110 percent of a like-for-like fuel gas system replacement, including the future costs of electrification retrofits. The building official shall consult with the [Community and Economic Development Director] in deciding whether to approve an economic hardship exemption.
- D. Projects submitting fees in-lieu of electric appliance installation, that amount to the future costs of electrification retrofits.

10.100.050 Fossil Fuel Disclosure During Sale of Property

- A. Required Information. Each person who sells or transfers an interest in real property located in the [City] must provide the following information to a prospective buyer:
1. A property records search provided by the Planning & Building Department for a nominal fee established by the City Council. This report shall show the building permit history for the property, including which improvements have been approved.
 2. A completed Fuel Gas Equipment Disclosure Form
- B. Timing of Disclosure. For any sale, transfer, or other transaction of a residential property that is subject to a disclosure requirement under Civil Code section 1102, et seq., the additional information required to be provided to the purchaser by this section shall be provided at the time such disclosures are made, and for all transactions not subject to a disclosure requirement under Civil Code section 1102, et seq., such additional information shall be provided not less than 10 days before close of escrow.
- EXCEPTION: The requirements specified in this section shall not apply to those sales or transfers listed in Civil Code section 1102.2, subdivisions (a) through (j), and subdivision (l).

10.100.060 Infeasibility Waiver

- A. Waiver. If an Applicant for an *appliance upgrade* believes that circumstances exist that make it technically or physically infeasible to meet the requirements of this Chapter, the applicant may request an infeasibility waiver as set forth below. Financial considerations alone shall not be a sufficient basis for technical or physical infeasibility. In applying for an exemption, the burden is on the Applicant to show infeasibility.
- B. Application Process. An Applicant may apply for an infeasibility waiver by submitting a written letter of justification for an infeasibility waiver as early as practicable. The Applicant shall

indicate in their letter of justification the maximum threshold of compliance he or she believes is feasible for the project and the circumstances that make it infeasible to fully comply with this Chapter. Circumstances that constitute infeasibility include, but are not limited to the following:

1. There is conflict with another City regulation, such as those requiring historic preservation;
 2. There is a lack of commercially available materials, appliances, and/or technologies to comply with the requirements of this Chapter;
 3. Applying the requirements of this Chapter would effectuate an unconstitutional interference;
 4. Applying the requirements of this Chapter would create a health hazard or uninhabitable conditions, such as lack of heat from any source in an inhabited space for more than 48 hours causing unsafe indoor air temperature, or prolonged lack of access to hot water.
- C. Review of Exemption. Where the City Manager or his/her designee determines that it is infeasible for the applicant to fully meet the requirements of this Chapter based on the information provided, the City Manager or his/her designee shall determine the maximum feasible threshold of compliance reasonably achievable for the project and condition the approval accordingly. The decision of the City Manager or his/her designee shall be provided to the applicant in writing. If an exemption is granted but the City Manager or his/her designee determines that the applicant can still achieve a certain threshold of compliance, 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 City Manager or his/her designee.
- D. Final Determination. If the City Manager or his/her designee determines that it is reasonably possible for the applicant to fully meet the requirements of this Chapter, the request for an exemption shall be denied and the City Manager or his/her designee shall so notify the applicant in writing.
- E. Expiration. The City Manager or his/her designee shall not grant infeasibility waivers on or after January 1, 2030. All Infeasibility Waivers granted previously shall expire on January 1, 2030.

10.100.070 Termination of Fuel Gas Usage

No later than January 1, 20XX, all buildings within [Municipality] shall not be served by *fuel gas infrastructure*.

No later than January 1, 2035, all buildings owned and operated by [Municipality] shall not be served by *fuel gas infrastructure*.

10.100.080 Periodic Review of Ordinance

The City shall review the requirements of this ordinance every 18 months for consistency with the California Energy Code and the Energy Commission's mid-cycle amendments and triennial code adoption cycle as applicable.

10.100.090 Severability

If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion,

or the prescribed application thereof, shall be severable, and the remaining provisions of this Chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect.

The City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause, and phrase of this Chapter, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases is declared invalid or unconstitutional.

10.100.100 Effective Date

The provisions of this chapter shall become effective on June 1, 2023.

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