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SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Community Development

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City Manager Approval: _____

TOPIC: ORDINANCE AMENDING GREEN BUILDING CODES

SUBJECT: AN ORDINANCE AMENDING TITLE 12 (BUILDING REGULATIONS) OF THE SAN RAFAEL MUNICIPAL CODE, BY AMENDING THE CALIFORNIA ENERGY CODE, THE 2022 CALIFORNIA GREEN BUILDING STANDARDS CODE FOR ELECTRIC VEHICLE CHARGERS, THE 2022 CALIFORNIA MECHANICAL CODE, AND THE 2022 CALIFORNIA PLUMBING CODE; ADDING A NEW CHAPTER 12.360 WITH ADMINISTRATIVE AND PROGRAM REGULATIONS ON MODEL REACH CODES; AND ADOPTING FINDINGS OF FACT SUPPORTING THE AMENDMENTS TO THE CODES.

RECOMMENDATION:

Waive further reading of the Ordinance, refer to it by title only and introduce the Ordinance.

BACKGROUND:

The State of California Code of Regulations Title 24 construction codes are updated and published on a three-year cycle. The California Building Standards Commission publishes the triennial codes, and State law mandates that these codes become effective throughout California 180 days after the publication date. The current cycle of State construction codes became effective on January 1, 2023. Local jurisdictions are permitted to further amend the published codes to address local climatic, geological, or topographical conditions. On November 21, 2022, the City Council adopted the Title 24 State Building Code in its entirety with minor amendments.

Each three-year code cycle, the State also updates the Green Building section of the Title 24 codes and provides potential Green Building “reach” codes to local jurisdictions that go above the State code. These reach codes are encouraged to adopt more stringent local amendments to help drive greenhouse gas (GHG) reductions and inform future State code updates. Often, these more stringent reach codes include stronger energy and water efficiency requirements, among other things. On December 5, 2022, the City

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

Council adopted local green building reach codes requiring enhanced electric vehicle charging requirements for new construction as well as requirements precluding the use of natural gas in new residential development and precluding natural gas line extensions and expansions in existing residential properties, among other things. Due to the 9th Circuit decision in the *California Restaurant Association v. City of Berkeley* case, staff recommends repealing those portions of the code precluding the use of gas in new residential development and precluding gas line extensions and expansions in existing residential properties, among other things. The proposed ordinance reflects these changes.

The State develops “intervening codes” mid-way between the three-year code updates, which typically have minor adjustments to the codes for various reasons. Those intervening codes automatically go into effect halfway through the code cycle without any action required by local jurisdictions. However, on occasion, these intervening codes are more significant, as is the case this year. Staff recommends updating our local codes to reflect some of those changes since some of them affect the City’s electric vehicle reach code.

Finally, when the City Council adopted the last round of green building reach codes in 2022, staff was directed to analyze reach code options for existing buildings since the City is mostly built out and will need to address emissions from its existing building stock to meet Climate Action Plan goals. Staff has been researching and developing an existing building renovation reach code with the help of community members, including representatives from our Planning Commission and Design Review Board.

The proposed ordinance would amend Title 12 of the City’s local Building Standards codes to include these new reach codes and make minor adjustments to the new State requirements to accommodate the City’s existing electric vehicle charger requirements, which are in some cases more stringent than the State. These amendments would also remove the prior natural gas prohibitions in the City’s previous reach code since a legal challenge occurred in the interim that now precludes such a requirement. This challenge was to the City of Berkeley in which the 9th Circuit Court determined that Berkeley’s prohibition on the installation of new gas pipeline connections was preempted by federal law. By extension, this applies to all local jurisdictions, including San Rafael.

Attachment 1 is the complete ordinance being proposed. Below is a brief summary of each of these code areas to be amended:

2022 Green Building Standards Code for Electric Vehicle Chargers: The provisions of this code apply to the installation of electric vehicle charging infrastructure, including equipment, fixtures, and fittings, including receptacles, charging equipment, software, and load management.

New chapter 12.360 – Single Family Model Reach Code – FlexPath: The provisions of this new chapter of the code specify additional energy efficiency and renewable energy measures for additions, alterations, and remodels of Covered Single-Family Projects.

After the introduction of this ordinance and public hearing, the ordinance would return to the City Council for final adoption at the next regularly scheduled meeting on June 3, 2024. After final adoption, the ordinance with these code amendments would be effective as soon as approved by the California Energy Commission, sometime after July 1, 2024, and most likely before September 2024. Building permit applications filed with the City prior to the effective date would not be subject to these amendments, nor the gas line prohibitions in the previous reach code.

ANALYSIS:

The staff recommendation requires amendments to four sections of Title 12 of the San Rafael Municipal Code as described below.

California Mechanical Code and Plumbing Code Amendments.

The purpose of the changes to the California Mechanical and Plumbing Codes is to remove from Title 12 previous amendments prohibiting gas on new construction and limiting gas expansion on existing single-family dwellings, thereby returning the codes to their base original language and requirements. This proposed ordinance adds language to Title 12, indicating that the City has no local amendments to the California Mechanical or Plumbing Codes. This method and format of indicating in Title 12 building codes that have not been amended specifically helps the community to identify clearly what has been amended or not amended by the City. This format and method have been used in the last two State code cycles and has been supported by the community.

California Green Building Code Amendments

The purpose of the changes to the California Green Building Standards Code Amendments is to incorporate new intervening code requirements for electric vehicle charging infrastructure into our local electric vehicle charging infrastructure reach codes. Since our local reach codes are more robust in some cases and we refer applicants to our local code this will make it easier to administer for both applicants and staff.

California Energy Code Amendments

The purpose of the changes to the California Energy Code is twofold. First, this amendment removes the City's prior reach code amendment that disallows gas infrastructure in most new construction and additional gas infrastructure for existing single-family homes. The second purpose of these changes is to reduce the greenhouse gas (GHG) emissions associated with the renovation of existing single-family homes, including town homes and duplexes, by requiring additional energy efficiency measures for projects over 500 square feet in size. The requirements would apply to larger projects that often trigger a variety of codes, including mechanical, electrical, and plumbing. These extend far beyond a typical bathroom or kitchen remodel and instead apply to things like additions and renovations of multiple rooms in a building. They would also apply to accessory dwelling units (ADUs) but not to junior accessory dwelling units (JADUs) since ADUs are greater than 500 square feet.

Staff recommend a new approach, called the "Flex Path", whereby project applicants will have the choice to select from a table of measures that reduce energy use in buildings. This can be found on page 5 of the ordinance labeled as Table 12.360A. To comply with this policy, an applicant will identify the required target score that applies to their home's construction year at the top of the table. Then, they are free to install any combination of measures from the table that adds up to that required target score. These scores were developed with the assistance of two local architects and builders who have served on the Planning Commission and Design Review Board. The target scores were set to ensure that projects can meet the totals easily enough without having to choose electrical appliances while also ensuring significant energy savings and, in most cases, ongoing utility cost savings as well. These cost savings are demonstrated in Attachment 2, the California Codes and Standards Cost Effectiveness Study. The Codes and Standards team also developed a [Frequently Asked Questions](#) document, which can be found in Attachment 3.

The proposed new reach code for existing building renovations is similar to those adopted by the County of Marin and the Towns of Fairfax and San Anselmo, with some differences to better meet the needs of the City's residents and building community. For example, San Rafael's target scores are slightly lower

than those of the County. Also, San Rafael maintains the State-recommended building vintages and different scores for each, while the County requires the same score regardless of a home's vintage. In addition, to capture more projects, the City chose to reduce the square footage threshold from the 750 square feet the County is using to 500 square feet. All of these changes were carefully selected in consultation with community advisors and the State Codes and Standards Team and were reviewed by an ad hoc subcommittee consisting of Councilmembers Bushey and Llorens Gulati. More information on the policy development, including discussions on co-benefits and social equity, can be found in Attachment 4.

The Community & Economic Development department approves between 40-60 of these types of projects annually. It is estimated that enacting these reach codes would reduce emissions from these buildings by between 10-22% compared to not complying with our reach code. This reach code is intended as a way to begin to address existing buildings in a moderate fashion with the ability to learn as it is applied and to be able to enhance the Flex Path with other interventions or increase the target scores as time goes on. As part of staff's commitment to equity, flexibility, and accessibility, there are exceptions built in as well as ways to give credit for energy efficiency measures already completed by applicants in prior projects. For example, if an applicant installed a solar system in the past several years that meets the requirements of the table, they would get credit for that. In addition, this Flex Path is seen as a means to encourage applicants to consider all the ways they can achieve energy and emissions reductions, including through air sealing, renewable energy installations, and the switch to electrical systems when appropriate.

Additionally, the ordinance includes a "catch-all" exemption which ensures that any one gas appliance is not prohibited by the ordinance. If a proposed project effectively results in the preclusion of the use of an appliance covered by the EPCA, the building official may waive any requirements of the ordinance causing such effective prohibition.

COMMUNITY ENGAGEMENT:

The City participated in a Steering Committee for a County of Marin-led "model reach code" development process, which resulted in the current reach code proposal. The Committee engaged and garnered feedback from individuals from a wide range of industries and organizations through surveys, interviews, focus groups, and meetings. They received feedback from city, town, and County staff; community-based organizations including environmental, affordable housing, senior/aging-in-place, and equity priority advocates; building community members including developers, architects, realtors, contractors, and Marin Builders Association; utilities including MCE and PG&E; and town and city commission, subcommittee, and City Council members. In addition, City staff have worked closely with the State Codes team and two local architects and builders in developing this proposal.

FISCAL IMPACT:

There is no fiscal impact associated with this action.

ENVIRONMENTAL REVIEW:

The proposed ordinance has been determined to be exempt from the California Environmental Quality Act (CEQA), pursuant to 14 CCR Section 15061(b)(3) since it can be seen with certainty that the adoption of this Ordinance would not have the potential for causing a significant effect on the environment. (14 Cal. Code Regs. Section 15061(b)(3), 'general rule' provision). The Ordinance is also exempt from the requirements of CEQA pursuant to CEQA Guidelines sections 15307 and 15308 as an action by a regulatory agency taken to protect the environment and natural resources.

OPTIONS:

The City Council has the following options to consider on this matter:

1. Consider public comment/testimony and introduce the Ordinance for adoption as proposed.
2. Consider public comment/testimony and introduce the Ordinance with amendments as directed by the Council.
3. Do not introduce the Ordinance and provide alternative directions to staff.

RECOMMENDED ACTION:

Waive further reading of the ordinance, refer to it by title only and introduce the Ordinance.

ATTACHMENTS:

1. Ordinance
2. California Codes and Standards Cost Effectiveness Study
3. FAQs: Single Family FlexPath Reach Codes
4. Policy Snapshot: Building Reach Code Proposal for Existing Construction