

HAYWARD CITY COUNCIL

RESOLUTION NO. 23-

Introduced by Council Member _____

RESOLUTION FINDING AND DETERMINING THE NEED FOR ADOPTION OF
MODIFICATIONS TO THE 2022 CALIFORNIA BUILDING STANDARDS CODE

WHEREAS, on September 8, 2016, California Governor Jerry Brown signed Senate Bill 32 (Pavley), setting a statewide greenhouse gas (GHG) reduction target of 40% below 1990 levels by 2030; and

WHEREAS, on September 18, 2018, California Governor Jerry Brown signed Executive Order B-55-18, committing California to achieving carbon neutrality no later than 2045, and achieving and maintaining net negative emissions thereafter; and

WHEREAS, on January 15, 2019, the Hayward City Council unanimously approved a resolution endorsing the declaration of a climate emergency. The Declaration states that climate change threatens our community, as well as cities across the globe, and requests regional collaboration in restoring a safe concentration of GHG in our atmosphere; and

WHEREAS, in June 2020, the Hayward City Council adopted goals to reduce GHG emissions by 30% below 2005 baseline levels by 2025, 55% by 2030, and to work with the community to develop a plan that may result in the reduction of community based GHG emissions to achieve carbon neutrality by 2045; and

WHEREAS, the City of Hayward targets utilize a baseline different from the State of California's but Hayward's GHG reduction targets are equivalent to the State's; and

WHEREAS, scientific evidence has established that natural gas combustion, procurement and transportation produce significant greenhouse gas emissions that contribute to global warming and climate change; and

WHEREAS, the electric space heating, water heating, cooking appliances, and clothes drying equipment associated with all-electric, buildings is linked to significantly lower greenhouse gas emissions and reduced costs to build; and

WHEREAS, all-electric building design benefits the health, welfare, and resiliency of the City of Hayward and its residents; and

WHEREAS, the most cost-effective time to integrate electrical infrastructure is in the design phase of a building project because building systems and spaces can be designed to optimize the performance of electrical systems and the project can take full advantage of avoided costs and space requirements from the elimination of natural gas piping and venting for combustion air safety; and

WHEREAS, an earlier version of Hayward's Reach Code was adopted by the City Council on November 15, 2022; and

WHEREAS, Hayward's Reach Code ordinance was reviewed by the California Building Standards Commission and Commission staff requested that the City provide a revised ordinance that lists the specific sections of the State Code that are modified by Hayward's ordinance; and

WHEREAS, Hayward staff prepared a revised ordinance referencing the appropriate sections of Part 11 (California Green Building Standards Code, aka CALGreen) of the California Building Code (Title 24 of the California Code of Regulations); and

WHEREAS, the provisions in this Ordinance are designed to reduce greenhouse gas emissions; increase resource conservation; provide durable and sustainable buildings that are efficient and economical to own and operate; promote the health and productivity of residents, workers, and visitors to the City recognize and conserve the energy and reduce the environmental footprint of new developments; and reduce disturbance of natural ecosystems; and

WHEREAS, adoption of the reach codes as part of the 2022 California Building Standards Code is consistent with and would advance goals and policies contained in the Hayward 2040 General Plan related to climate change, greenhouse gas reductions, and public health and safety; and

WHEREAS, California Health and Safety Code section 17958 requires that cities adopt building regulations that are substantially the same as those adopted by the California Building Standards Commission and contained in the California Building Standards; and

WHEREAS, California Health and Safety Code Sections 17958.5, 17958.7 and 18941.5 provide that the City may make changes or modifications to the building standards contained in the California Building Standards based upon express findings that such changes or modifications are reasonably necessary because of local climatic, geological or topographical conditions; and

WHEREAS, the City Council of the City of Hayward finds that each of the amendments, additions and deletions to the 2022 California Building Standards Code contained in this ordinance are reasonably necessary because of local climatic, geological or topographical conditions described in Section 1.

NOW, THEREFORE, BE IT RESOLVED that the aforementioned amendments to the *2022 California Building Standards Code*, are based on local climatic, geological, or topographical conditions. The "Findings of Facts" contained herein addresses present local conditions which either singularly or in combination cause the aforementioned amendments to be adopted.

SECTION 1: FINDINGS AND DETERMINATIONS.

The following local climatic, conditions justify modifications to the California Building Standards Code.

1. The City of Hayward is already experiencing the repercussions of excessive greenhouse gas emissions including increased temperatures and more extreme weather events, decreased precipitation, and increased wildfire risk.
2. Portions of the City of Hayward are situated along a wildland-urban interface and are extremely vulnerable to wildfires, and human activities releasing greenhouse gases into the atmosphere cause increases in worldwide average temperature, drought conditions, vegetative fuel, and length of fire seasons—all of which contribute to the likelihood and consequences of fire.
3. The City of Hayward's natural gas building infrastructure is a potentially significant source of fire during earthquakes, fire, and other natural disaster events.
4. Marginalized communities in the City of Hayward and worldwide—including people of color, immigrants, indigenous communities, low-income people, those with disabilities, and the unhoused—are already disproportionately affected by climate change and are especially vulnerable to heat events.
5. City of Hayward residents suffer from asthma and other health conditions associated with poor indoor and outdoor air quality exacerbated by the combustion of natural gas.
6. Structures in Hayward are located along or near the Hayward fault, which is likely to produce a large earthquake in the Bay Area.
7. Local conditions have a definite impact upon buildings in Hayward. Therefore, it is found to be reasonably necessary that the *2022 California Building Standards Code* be changed or modified to mitigate the effects of the above conditions.

SECTION 2. CEQA Finding.

The City Council finds that this Ordinance is not a project under the requirements of the California Environmental Quality Act, together with related State CEQA Guidelines (collectively, "CEQA") because it has no potential for resulting in a physical change to the

environment. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility that the action approved may have a significant effect on the environment. CEQA applies only to actions which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In this circumstance, the proposed action would have no or only a de minimis effect on the environment. The Ordinance is also exempt from CEQA under CEQA Guidelines section 15308, because it is a regulatory action for the protection of the environment. The foregoing determination is made by the City Council in its independent judgment.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to cause a copy of this resolution, together with the modifications or changes to the 2022 California Building Code, to be filed with the California Building Standards Commission.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2023.

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward