

HAYWARD CITY COUNCIL

RESOLUTION NO. 20-

Introduced by Council Member _____

RESOLUTION FINDING AND DETERMINING THE NEED FOR ADOPTION OF
MODIFICATIONS TO THE 2019 CALIFORNIA BUILDING STANDARDS CODE

WHEREAS, in 2014, the City of Hayward adopted the Hayward 2040 General Plan including policies to reduce community and municipal operational emissions by 20% below 2005 baseline levels by 2020, 61.7% by 2040, and 82.5% by 2050; 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, the countries that signed the 2015 Paris Agreement vowed to keep warming this century “well below 2°C above pre-industrial levels” and to “pursue efforts to limit the temperature increase even further to 1.5°C.”; 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 are 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, the City Council Sustainability Committee received reports and presentations on building and vehicle electrification reach codes on July 16, 2018, January 14, 2019, May 13, 2019, September 17, 2019, and October 30, 2019; and

WHEREAS, on October 30, 2019, Hayward’s City Council Sustainability Committee recommended adoption the draft reach codes; and

WHEREAS, Public Resources Code Section 25402.1(h)2 and Section 10-106. of the Building Energy Efficiency Standards (Standards) establish a process which allows local adoption of energy standards that are more stringent than the statewide Standards, provided that such local standards are cost effective and the California Energy Commission finds that the standards will require buildings to be designed to consume no more energy than permitted by the California Energy Code; and

WHEREAS, local agencies that adopt energy standards which exceed minimum Building Energy Efficiency Standards must demonstrate that the requirements of the proposed ordinance are cost effective and do not result in buildings consuming more energy than is permitted by Title 24; and

WHEREAS, the California Codes and Standards Reach Code Program, has determined specific modifications to the 2019 State Energy Code for each climate zone that are cost effective; and

WHEREAS, that such modifications will result in designs that consume less energy than they would under the 2019 State Energy Code; and

WHEREAS, based upon these analyses, the City Council of the City of Hayward finds that the local amendments to the California Energy Code contained in this ordinance are cost effective and will require buildings to be designed to consume no more energy than permitted by the California Energy Code; 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 2019 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, the California Energy Code is a part of the California Building Standards which implements minimum energy efficiency standards in buildings through mandatory requirements, prescriptive standards, and performances 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 California Energy 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 *2019 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. From 2012 to 2017, Hayward, like the rest of the State, experienced one of the worst droughts on record.
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 greenhouse gas emissions of San Francisco Bay. Both of these faults are considered major Northern California earthquake faults which may experience rupture at any time. Thus, because the City is within a seismic area.
6. Local conditions have a definite impact upon buildings in Hayward. Therefore, it is found to be reasonably necessary that the *2019 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.

SECTION 3. Determination of Cost Effectiveness.

Cost effectiveness studies was prepared for the Statewide Code and Standards Program titled "2019 Cost Effectiveness Study: Low-Rise Residential New Construction" and "2019 Nonresidential New Construction Reach Code Cost Effectiveness Study" ("Studies"). The Studies analyzed the feasibility and cost effectiveness of requiring new construction to be all-electric for 16 different climate zones in California, including climate zone 3, within which the City of Hayward is located. The Studies determined the efficiency standards in this ordinance will meet the Study's cost-effectiveness requirements in climate zone 3. Based on this, the City Council of the City of Hayward hereby determines that the all-electric measures being adopted by the City are cost effective as documented in the Studies.

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 2019 California Building Code, to be filed with the California Energy Commission.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2020.

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
 MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

MAYOR: _____

ATTEST: _____
 City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward