

ORDINANCE NO. C-2021-____

**ORDINANCE AMENDING THE HALF MOON BAY MUNICIPAL CODE TO ADDING
A NEW SECTION 14.06 TO CHAPTER 14 ENTITLED "ELECTRIFICATION OF
BUILDINGS" AND ADOPTING CEQA EXEMPTION FINDINGS**

THE CITY COUNCIL OF THE CITY OF HALF MOON BAY DOES ORDAIN AS FOLLOWS:

Section 1. Findings: The City Council finds and declares as follows:

WHEREAS, Health and Safety Code Section 18941.5, with reference to Section 17958.7, allows for more restrictive local amendments to the current California Building Standards Code ("Building Code") that are reasonably necessary because of local climatic, geological, or topographical conditions; and

WHEREAS, the Half Moon Bay City Council expressly declares that these proposed amendments to the Building Code are reasonably necessary because of local climatic, topographical, and geological conditions; and

WHEREAS, failure to address and significantly reduce greenhouse gas emissions could result in rises in sea level that could put at risk Half Moon Bay homes and businesses, public facilities, and portions of major local and regional transportation infrastructure; and

WHEREAS, due to changes in rainfall patterns expected with climate change, the City of Half Moon Bay is likely to be subject to more severe weather events, including droughts as well as more intense storms that increase the risks of, and have actually resulted in, extreme wildfires, erosion, overland local flooding and landslides; and

WHEREAS, it is expected that climate change will result in further severe and frequent extreme heat events, intensifying local heat islands and putting vulnerable populations at health risk, which has already occurred at unprecedented levels with sea level rise and widespread wildfires in the area; and

WHEREAS, in 2016, the State of California enacted Senate Bill (SB) 32 to require greenhouse gas emissions to be reduced to 40 percent below 1990 levels by 2030; and

WHEREAS, in 2018, Governor Brown signed Executive Order (EO) B-55-18 which calls for California to achieve carbon neutrality as soon as possible, and no later than 2045; and

WHEREAS, the City of Half Moon Bay is preparing its Climate Action and Adaptation Plan to, at minimum meet State emissions goals established in SB32 and EO B-55-18; and

WHEREAS, based upon the latest available data, 48 percent of Half Moon Bay's local greenhouse gas emissions came from buildings, with 80 percent of that total coming from onsite Fuel Gas combustion; and

WHEREAS, without significant reductions in Fuel Gas combustion within buildings, Half Moon Bay is unlikely to achieve its greenhouse gas reduction targets; and

WHEREAS, the City Council has identified electrifying buildings as a necessary strategy to achieve the City's 2030 and 2045 greenhouse gas reduction targets; and

WHEREAS, Half Moon Bay primarily receives electricity from Peninsula Clean Energy, whose electricity portfolio is 100% greenhouse gas free as of January 2021, prioritizing local renewable generation and local green jobs development; and

WHEREAS, onsite Fuel Gas combustion is known to lead to elevated levels of harmful indoor air pollutants that disproportionately affect frontline communities, including people of color, immigrants, indigenous communities, low-income people, those with disabilities, and the unhoused; and

WHEREAS, the indoor air pollutants that arise from onsite Fuel Gas combustion have been shown to contribute to respiratory ailments such as asthma, such that children living in homes with gas cooking are 42 percent more likely to have asthma; and

WHEREAS, Fuel Gas infrastructure and pipelines contribute to the risk of fires and explosions such as the 2010 San Bruno pipeline explosion, with the risk magnified in cases of major earthquakes; and

WHEREAS, highly efficient buildings enhance Half Moon Bay's public health, welfare, and resiliency by promoting environmental and economic health and safety through the design, construction, maintenance, and operation of buildings; and

WHEREAS, it is reasonably necessary to require buildings to produce renewable, low-carbon electricity and to reduce energy consumption through efficient design in order to reduce the effects of climate change (which have already been experienced locally through sea level rise and wildfires), reduce regional pollution, improve overall safety, and improve resilience to climate change; and

WHEREAS, costs for all-electric new construction have been shown to be on par with or less than those for mixed-fuel construction in the Half Moon Bay climate zone; and

WHEREAS, on February 2, 2021, the City Council conducted a study session on Building Electrification and directed staff to prepare a draft ordinance for consideration by the community and City Council;

WHEREAS, the requirements specified in this Ordinance were the subject of stakeholder outreach from June through September 2021, including public meetings and individual stakeholder interviews; and

WHEREAS, climate disruption is being fueled by the burning of fossil fuels, including “natural gas,” oil, and coal, and the disruption is already having devastating impacts on those who can least afford it and are least responsible for the problem; and

WHEREAS, requiring all newly constructed buildings to be all-electric will create the groundwork for clean energy technologies to proliferate and become cost-competitive, and provide the impetus for workforce development in clean energy technologies and building electrification retrofits, such that it will be easier for existing buildings to become all-electric; and

WHEREAS, Half Moon Bay can help lead the climate change movement by implementing climate solutions to benefit all people in our community, particularly those that have been disadvantaged by air pollution and other environmental harms in our most vulnerable communities; and

WHEREAS, this Ordinance is exempt from the California Environmental Quality Act (“CEQA”) under CEQA Guidelines sections 15061(b)(3) and 15308 on the grounds that the regulatory standards contained therein are more stringent than those set forth in the State Building Standards Code, and as a result there are no reasonably foreseeable adverse impacts or possibility that the activity in question may have a significant effect on the environment.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF HALF MOON BAY DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The City Council finds and determines the foregoing recitals are true and correct and are hereby incorporated herein as findings and determinations of the City Council.

SECTION 2. Addition of Section 14.06 to Chapter 14 of the HALF MOON BAY Municipal Code. Half Moon Bay Municipal Code Chapter 14.06 is hereby added to read as follows:

Section 14.06

ELECTRIFICATION OF BUILDINGS

14.06.010 Applicability.

- A. The requirements of this Chapter shall apply at the time of building permit application for all Newly Constructed Buildings, as defined in Section 14.06.020 F.
- B. The requirements of this Chapter shall apply at the time of building permit application for Exchange of Gas Appliances, as defined in Section 14.06.020(C)
- C. The requirements of this Chapter shall not apply to the use of portable propane appliances for use outside of the building envelope, such as outdoor cooking and outdoor heating appliances.

14.06.020 Definitions.

- A. "Accessory Dwelling Unit" shall have the same meaning as specified in Section 65852.2 of the California Government Code.
- B. "All-Electric Building" or "All-Electric Design" is a building or building design that uses a permanent supply of electricity as the source of energy for all space heating, water heating (including pools and spas), cooking appliances, and clothes drying appliances, and has no Fuel Gas plumbing installed in the building.
- C. "Exchange of Fuel Gas Appliances" shall mean the voluntary or mechanically necessary replacement of appliances fueled by Fuel Gas for space heating or cooling, exterior heating, decorative uses and lighting, water heating (including pools and spas), cooking, clothes drying, and onsite generation of electricity (except where primarily fueled by onsite digestion of organic material) with other appliances fueled by Fuel Gas.
- D. "EV Capable" means a parking space linked to a listed electrical panel with sufficient capacity to provide at least 110/120 volts and 20 amperes to the parking space. Raceways linking the electrical panel and parking space only need to be installed in spaces that will be inaccessible in the future, either trenched underground or where penetrations to walls, floors, or other partitions would otherwise be required for future installation of branch circuits. Raceways must be at least 1" in diameter and may be sized for multiple circuits as allowed by the California Electrical Code. The panel circuit directory shall identify the overcurrent protective device space(s) reserved for EV charging as "EV CAPABLE." Construction documents shall indicate future completion of raceway from the panel to the parking space, via the installed inaccessible raceways. The parking space shall contain signage with at least a ½" font adjacent to the parking space indicating the space is designated as EV Capable for future connection of infrastructure at the designated voltage and amperage levels.

- E. “Electric Vehicle Charging Station (EVCS)” means a parking space that includes installation of electric vehicle supply equipment (EVSE) with a minimum capacity of 30 amperes connected to a circuit serving a Level 2 EV Ready Space. EVCS installation may be used to satisfy a Level 2 EV Ready Space requirement. Electric vehicle supply equipment (EVSE) shall be installed in accordance with the California Electrical Code, Article 625.
- F. “Fuel Gas” shall be as defined in the California Plumbing Code Section 208.0 and the California Mechanical Code Section 208.0.
- G. “Level 1 EV Ready Space” means a parking space served by a complete electric circuit with a minimum of 110/120 volt, 20-ampere capacity including electrical panel capacity, overprotection device, a minimum 1” diameter raceway that may include multiple circuits as allowed by the California Electrical Code, wiring, and either a) a receptacle labelled “Electric Vehicle Outlet” in at least a ½” font adjacent to the parking space, or b) electric vehicle supply equipment (EVSE).
- H. “Level 2 EV Ready Space” means a parking space served by a complete electric circuit with minimum 208/240 volt, 40-ampere capacity including electrical panel capacity, overprotection device, a minimum 1” diameter raceway that may include multiple circuits as allowed by the California Electrical Code, wiring, and either a) a receptacle labelled “Electric Vehicle Outlet” in at least a ½” font adjacent to the parking space, or b) electric vehicle supply equipment (EVSE) with a minimum output of 30 amperes.
- I. “Mixed-Fuel Building” means a building that uses Fuel Gas as fuel for space heating or cooling, exterior heating, decorative uses or lighting, water heating (including pools and spas), cooking appliances or clothes drying appliances, onsite generation of electricity (except where primarily fueled by onsite digestion of organic material), or contains fixtures, piping systems, or infrastructure for Fuel Gas equipment for such uses.
- J. “Newly Constructed Buildings” shall mean any building including additions representing 50-percent or more of the existing floor area that: (1) has obtained a Coastal Development Permit from the City on or after the effective date of this Chapter and has never before been used or occupied for any purpose, (2) has obtained a valid land use entitlement from the City before the effective date of this Chapter but has failed to file for a development-related permit within one (1) year from the effective date of this Chapter and has never before been used or occupied for any purpose.

14.06.030 Requirement for All-Electric Construction.

- A. Newly Constructed Buildings shall meet the definition of an All-Electric Building and shall be designed using an All-Electric Design.
- B. Newly Constructed Buildings must also meet the following requirements:
 - a. Photovoltaic (PV) System sufficient to meet a minimum 75% of the building's required electric energy demand.
 - b. Backup battery storage sufficient to meet a minimum of 24-hours of the building's electric energy demand.
 - c. Electric Vehicle (EV) charging capability as follows:
 - i. New one- and two-family dwellings and townhouses. For each dwelling unit, install an EVCS and a Level 1 EV Ready Space.
 - ii. New multifamily dwellings. For each dwelling unit, install one Level 2 EV Ready Space for each of the first 20 dwellings. After first 20 dwellings, install 25% Level 2 EV Ready Spaces and 75% Level 1 EV Ready Spaces for each of the remaining dwellings.
- C. Conversion to Mixed-Fuel Buildings. The Building Official shall not issue permits that would convert an All-Electric Building into a Mixed-Fuel Building where the permit application is submitted on or after the effective date of this Chapter.
- D. Exchange of Fuel Gas Appliances. The Building Official shall not issue permits to replace Fuel Gas powered appliances with Fuel Gas powered appliances where the application is submitted on or after the effective date of this chapter.
- E. Conversion to All-Electric Buildings. No later than January 1, 2045, all buildings within Half Moon Bay shall be converted to All-Electric Buildings and all Fuel Gas plumbing lines shall be capped and/or decommissioned. The City shall establish procedures for conversion no later than January 1, 2044.
- F. The requirements of this Section shall be deemed objective planning standards under Government Code section 65913.4 and objective development standards under Government Code section 65589.5.
- G. The requirements of this Chapter shall not affect any other state or local requirement related to the delivery of affordable housing, including but not limited to state and local

density bonus requirements under Government Code Section 65915 et seq. and O.M.C. Chapter 17.107.

14.06.040 Exceptions.

The requirements of this Chapter shall not apply to the following:

- A. Accessory Dwelling Units that are attached to a Mixed-Fuel single-family or multi-family building/unit except that cooking and drying appliances shall be electric.
- B. Development projects that have obtained vested rights prior to the effective date of this Ordinance.

14.06.050 Infeasibility Waiver.

- A. Waiver. If an applicant for a permit for a Newly Constructed Building or an Exchange of Fuel Gas Appliance believes that physical or technical circumstances exist that make it technically or physically infeasible to meet the requirements of this Chapter in part or in whole, the applicant may request an exemption as set forth below. Financial considerations 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 for a permit for a Newly Constructed Building or an Exchange of Fuel Gas Appliance may apply for an infeasibility waiver by submitting a written letter of justification for an exemption at the time of application for a coastal development permit or where none is required, in conjunction with building permit application. The applicant shall indicate in his or her letter of justification the maximum threshold of compliance he or she believe 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.
- C. Review of Exemption. If the Director of Community Development determines that it is infeasible for the applicant to fully meet the requirements of this Chapter based on the information provided, the Director shall determine the maximum feasible threshold of compliance reasonably achievable for the project. The decision of the Director shall be

provided to the applicant in writing. If an exemption is granted but the Director 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 Director.

- D. Final Determination. If the Director of Community Development 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 Director shall so notify the applicant in writing.
- E. Referral to Planning Commission. The Director of Community Development may refer any exemption application involving a Coastal Development Permit to the Planning Commission.
- F. Expiration. The Director of Community Development shall not grant infeasibility waivers on or after January 1, 2045. All Infeasibility Waivers granted previously shall expire on January 1, 2045.

14.06.060 Appeal.

- A. Any aggrieved Applicant may appeal the determination of the Director of Community Development regarding the granting or denial of an exception or infeasibility waiver pursuant to this Chapter.
- B. Any appeal must be filed in writing with the Community Development Department not later than fourteen (14) days after the date of the Director's determination. The appeal shall state the alleged error or reason for the appeal.
- C. The appeal shall be processed and considered by the Planning Commission and/or City Council in accordance with the provisions of the Half Moon Bay Municipal Code.

14.06.070 Periodic Review and Administrative Regulations.

The City shall review the requirements of this Chapter for ongoing consistency with California Building Standards Commission regulations under Title 24 and the Commission's triennial code adoption cycle and is also authorized to draft administrative regulations implementing requirements of this Chapter.

14.06.080 Violations.

An owner of a building, a tenant and/or an agent representing the owner subject to this Chapter who fails to comply with any of requirements of this Chapter shall be subject to fines and penalties contained in Title 4 (Code Enforcement) and any other enforcement provisions authorized by the California Building Code or related Codes.

Section 3. California Environmental Quality Act. The City Council finds that this Ordinance is exempt from CEQA under CEQA Guidelines section 15061(b)(3) on the grounds that the standards contained therein are more stringent than those set forth in the State Building Standards Code, and as a result there are no reasonably foreseeable adverse impacts or possibility that the activity in question may have a significant 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 4. Severability. If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 5. Publication. The City Clerk of the City of Half Moon Bay is hereby directed to publish this Ordinance, or the title hereof as a summary, pursuant to Government Code Section 36933, once within fifteen (15) days after its passage in the Half Moon Bay Review, a newspaper of general circulation published in the City of Half Moon Bay.

Section 6. Effective date. This Ordinance shall take effect and be in force on the thirtieth (30th) day from and after its final passage.

INTRODUCED at a regular meeting of the City Council of the City of Half Moon Bay, California, held on the ____ day of ____, 2021, by the following vote:

Ayes, Councilmembers: _____
Noes, Councilmembers: _____
Absent, Councilmembers: _____
Abstain, Councilmembers: _____

ATTEST:

Jessica Blair, City Clerk

Robert Brownstone, Mayor

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