

TOWN OF WINDSOR AGENDA REPORT

Town Council Meeting Date: January 6, 2021

To: Mayor and Town Council
From: Jessica Jones, Community Development Director
Subject: Ordinance Repealing the All-Electric Residential Reach Code

Recommendation to Council:

Introduce and hold first reading, by title only, an ordinance repealing Ordinance No. 2019-338 in its entirety and partially repealing Ordinance No. 2019-339 as it relates to the All-Electric Residential Reach Code.

Background and Discussion:

On October 16, 2019, by Ordinance No. 2019-338, the Town adopted an Ordinance adding Chapter 7, “All-Electric Residential Reach Code” to the Windsor Municipal Code Title VII, “Building and Housing.”

On November 20, 2019, by Ordinance No. 2019-339, the Town adopted an Ordinance adopting by Reference the 2019 Edition of the California Code of Regulations, Title 24, and making local amendments to various portions of the Title 24 Codes, including amendments for the All-Electric Residential Reach Code

The ordinance, which became effective on January 1, 2020, applies to the development of all new low-rise residential development, including single-family homes, detached accessory dwelling units and multi-family development up to three-stories in height. New low-rise residential development is required to use only electric appliances and mechanical systems; the use of gas appliances and mechanical systems is not allowed.

Following adoption of the All-Electric Residential Reach Code, two lawsuits were brought against the Town to challenge the findings the Town made under the California Environmental Quality Act when the Town adopted the Code (“Reach Code Cases”). The Town and the petitioners in the Reach Code cases have reached a negotiated settlement. The terms of that settlement require the Town to delete Chapter 7, “All-Electric Residential Reach Code” from the Windsor Municipal Code Title VII, “Building and Housing,” and all related changes that were made to the 2019 California Energy Code. Therefore, adoption of this action would effectuate the terms of the settlement agreements in the Reach Code Cases and is necessary to ending litigation in those cases. Rejection of this action would leave the All-Electric Reach Code in place but would require the Town to resume defending the litigation in the Reach Code Cases.

The Energy Code and the Green Building Code will be as they were adopted prior to the Reach Code. Tier I has been adopted through the Green Building Code and will remain as adopted.

Fiscal Impact:

The recommended action will have no direct fiscal impacts on the Town's general fund.

Environmental Review:

The recommended action is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly.

The main environmental benefit of the All-Electric Residential Reach Code was the reduction in Greenhouse Gas ("GHG") emissions for new residential construction in the Town. However, even with the rescinding of the All-Electric Reach Code, the Town's General Plan contains several policies and requirements that will also work to reduce GHG emissions from new residential construction.

General Plan Policy ER-5.1 Community Greenhouse Gas Reduction, states:

"The Town shall strive to reduce emissions by 25 percent below the 1990 community emissions level by 2020, and further reduce community emissions by:

- 40 percent below the 1990 level by 2030;
- 60 percent below the 1990 level by 2040; and
- 80 percent below the 1990 level by 2050"

General Plan Policy ER-5.3 Greenhouse Gas Efficiency Target requires that "The Town shall ensure that all new development projects and Public Works Improvement projects would result in less than (*) metric tons CO₂e per capita (including residents and employees) per year in order to ensure that the emissions targets for the years 2030 and 2050 in ER-5.1 and ER-5.2 would be achieved." The General Plan left to the Town the discretion to adopt the efficiency threshold after adoption of the General Plan and the Town has since adopted efficiency thresholds as follows:

- 1.91 metric tons CO₂e per service population per year from 2017 to 2030.
- 1.12 metric tons CO₂e per service population per year from 2030 to 2040.
- 0.49 metric tons CO₂e per service population per year from 2040 to 2050.

Thus, while the All-Electric Residential Reach Code would have assisted new residential development in meeting the General Plan required-GHG efficiency threshold, new residential development will still be required to meet the GHG efficiency threshold through other means. Therefore, rescinding the All-Electric Residential Reach Code will not result in a net increase in GHG emissions for the Town because new development will still be required to meet the efficiency thresholds.

Attachment:

1. Ordinance

Prepared by:

Jessica Jones

Community Development Director

Reviewed and Recommended by:

Ken MacNab

Town Manager

ORDINANCE NO.**AN ORDINANCE OF THE TOWN OF WINDSOR REPEALING ORDINANCE NO. 2019-338 IN ITS ENTIRETY AND PARTIALLY REPEALING ORDINANCE NO. 2019-339 AS IT RELATES TO THE ALL-ELECTRIC RESIDENTIAL REACH CODE**

WHEREAS, on October 16, 2019, by Ordinance No. 2019-338, the Town adopted an Ordinance adding Chapter 7, “All-Electric Residential Reach Code” to the Windsor Municipal Code Title VII, “Building and Housing;” and

WHEREAS, on November 20, 2019, by Ordinance No. 2019-339, the Town adopted an Ordinance adopting by Reference the 2019 Edition of the California Code of Regulations, Title 24, and making local amendments to various portions of the Title 24 Codes, including amendments for the All-Electric Residential Reach Code; and

WHEREAS, the Town Council desires to repeal Ordinance 2019-338 in its entirety, including Section 4 of that Ordinance, which added Chapter 7 “All-Electric Residential Reach Code” to Title VII (“Building and Housing”) to the Windsor Municipal Code; and

WHEREAS, the Town Council desires to partially repeal Ordinance 2019-339, insofar as those portions related to the All-Electric Residential Reach Code.

NOW, THEREFORE, the Town Council for the Town of Windsor does **ORDAIN** as follows:

SECTION 1. RECITALS.

The above recitals are true and correct, and made a part of this Ordinance.

SECTION 2. REPEAL OF ORDINANCE NO. 2019-338 IN ITS ENTIRETY.

Ordinance No. 2019-338 is hereby repealed, in its entirety. Accordingly, the “All-Electric Residential Reach Code” codified within the Town of Windsor Municipal Code as Article 1 (“Requiring All-Electric Construction in New Construction Low-Rise Residential Buildings”), Chapter 7 (“All-Electric Residential Reach Code”) of Title VII (“Building and Housing”) is hereby repealed, in its entirety.

SECTION 3. PARTIAL REPEAL OF ORDINANCE NO. 2019-339 AS IT RELATES TO THE ALL-ELECTRIC RESIDENTIAL REACH CODE.

Ordinance No. 2019-339 is hereby repealed, in part, as follows:

1. Section 6 (“Further Energy Code Findings and Determinations”) of Ordinance No. 2019-339 is hereby repealed in its entirety.

2. Section 7 (“Title VII Municipal Code Amendments and Additions”) of Ordinance No. 2019-339 is hereby partially repealed, as follows:

Sections 7-2-801 – 7-2-8011 of Ordinance No, 2019-339 are hereby repealed, which are codified within Article 8 (“California Energy Code – Title 24, Part 6”), Chapter 2 (“California Code of Regulations”) of Title VII (“Building and Housing”) of the Town of Windsor Municipal Code.

SECTION 4. CEQA.

The Town Council finds that this Ordinance is not subject to the California Environmental Quality Act (“CEQA”) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 5. SEVERABILITY.

That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Town Council of the Town of Windsor hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

SECTION 6. EFFECTIVE DATE AND PUBLICATION.

This ordinance shall take effect thirty (30) days after adoption. Council authorizes the posting of the full text of the ordinance or publication of a summary of the ordinance pursuant to Government Code Section 36933 (c).

PASSED, APPROVED, AND ADOPTED this ____ day of ____ 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

DOMINIC FOPPOLI, AT-LARGE MAYOR

ATTEST:

MARIA DE LA O, TOWN CLERK