Approved as to Form and Legality

Brian P. Mahoney

City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. 88423 C.M.S.

RESOLUTION OF FINDINGS SUPPORTING AMENDING THE OAKLAND MUNICIPAL CODE (O.M.C) TO ADD BUILDING AND CONSTRUCTION CODE CHAPTER 15.37, ENTITLED "ALL-ELECTRIC CONSTRUCTION IN NEWLY CONSTRUCTED BUILDINGS"; AND ADOPTING CEQA EXEMPTION FINDINGS

WHEREAS, the 2019 Edition of the California Building Standards Code went into effect throughout California on January 1, 2020; and

WHEREAS, local jurisdictions are required to enforce the California Building Standards Code but may also enact more stringent standards, or equivalent standards for residential occupancies, when reasonably necessary because of local conditions caused by climate, geology or topography; and

WHEREAS, California Health & Safety Code section 17958.7 provides that before making any changes or modifications to the California Building Standards Code and any other applicable provisions published by the State Building Standards Commission, the governing body must make an express finding that each such change or modification is reasonably necessary because of specified local conditions, and the findings must be filed with the State Building Standards Commission before the local changes or modifications can go into effect; and

WHEREAS, local jurisdictions have the authority to adopt local energy efficiency ordinances—or reach codes—that exceed the minimum standards defined by Title 24 (as established by Public Resources Code Section 25402.1(h)2 and Section 10-106 of the Building Energy Efficiency Standards, provided the City Council finds 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, 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 in the future; and

WHEREAS, Oakland can help lead the climate justice 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 Resolution 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; and

WHEREAS, each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance; now, therefore, be it

RESOLVED: That the City of Oakland is unique among California communities with respect to local climatic, geological, topographical, and other conditions. A specific list of findings that support the City of Oakland's modifications to the 2019 California Building Standards Code is contained in **Exhibit A** entitled "Findings for City of Oakland Amendments to the California Building Standards Code to Require Electrification of Newly Constructed Buildings," attached hereto and hereby declared to be a part of this Resolution as if set forth fully herein; and be it

FURTHER RESOLVED: That pursuant to California Health & Safety Code section 17958.7, the City Council finds and determines that the local conditions described in **Exhibit A** constitute a general summary of the most significant local conditions giving rise to the need for modification of the 2019 California Building Standards Code provisions published by the State Building Standards Commission; and be it

FURTHER RESOLVED: That the City Council further finds and determines that the proposed modifications are reasonably necessary based upon the local conditions set forth in **Exhibit A** and that such modifications are required in order to provide specific and greater protections to the public health, safety and welfare than are afforded by the 2019 California Building Standards Code; and be it

FURTHER RESOLVED: That the City Council of the City of Oakland further finds and determines that the local amendments to the California Building Standards Code, as set forth in a separate companion ordinance adopting said amendments as Oakland Municipal Code Chapter 15.37, entitled "All-Electric Construction in Newly Constructed Buildings", impose substantially the same non-administrative regulatory requirements, and are thus equivalent to or more stringent than the most current California Building Standards Code requirements while also being cost-effective; and be it

FURTHER RESOLVED: That this Resolution shall become effective immediately, unless otherwise required by the Charter of the City of Oakland; and be it

FURTHER RESOLVED: The action contemplated by this Resolution 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; and be it

FURTHER RESOLVED: Each of the foregoing provides a separate and independent basis for CEQA compliance and, when viewed collectively, provides an overall basis for CEQA compliance; and be it

FURTHER RESOLVED: That the Building Official of the City of Oakland is hereby directed to transmit this Resolution with the **Exhibit A** attachment, along with a copy of said separate companion ordinance adding Oakland Municipal Code Chapter 15.37, entitled "All-Electric Construction in Newly Constructed Buildings," amending the 2019 Edition of the California Building Standards Code, to the California Building Standards Commission upon final adoption of Oakland Municipal Code Chapter 15.37., pursuant to the applicable provisions of State law.

IN COUNCIL, OAKLAND, CALIFORNIA, DEC 01 2020

PASSED BY THE FOLLOWING VOTE:

AYES - FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN — 8

NOES – 0

ABSENT – 0

ABSTENTION – 0

ATTEST: _____

ASHA REED
Acting City Clerk and Clerk of the Council of
the City of Oakland, California

EXHIBIT A

FINDINGS FOR CITY OF OAKLAND AMENDMENTS TO THE CALIFORNIA BUILDING STANDARDS CODE TO REQUIRE ELECTRIFICATION OF NEWLY CONSTRUCTED BUILDINGS

The City Council of the City of Oakland finds that the following local amendments of the 2019 California Building Standards Code (explained in further detail in a separate companion ordinance) are reasonable and necessary as a result of the following unique local climatic, topographic, and geologic conditions:

Section 17958 of the California Health and Safety Code provides that the City may make changes to the provisions in the uniform codes that are published in the California Building Standards Code. Sections 17958.5 and 17958.7 of the Health and Safety Code require that for each proposed local change to those provisions in the uniform codes and published in the California Building Standards Code which regulate buildings used for human habitation, the City Council must make findings supporting its determination that each such local change is reasonably necessary because of local climatic, geological, or topographical conditions.

Regarding the Energy Code, local jurisdictions have the authority to adopt local energy efficiency ordinances—or reach codes—that exceed the minimum standards defined by Title 24 (as established by Public Resources Code Section 25402.1(h)2 and Section 10-106 of the Building Energy Efficiency Standards, provided the City Council finds 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.

This Chapter is justified based on a local climatic condition. The seasonal climatic conditions during the late summer and fall create severe fire hazards that threaten the public health and welfare in the City. The hot, dry weather is potentially dangerous to the North Oakland Hills, which is identified by Cal Fire as a Very High Fire Hazard Severity Zone. The aforementioned conditions combined with the geological characteristics of the hills within the City create hazardous conditions for which departure from California Energy Code is required in an attempt to reduce greenhouse gas (GHG) emissions, global warming, which has been scientifically proven to result in increased wildfire risk.

In addition, failure to address and significantly reduce GHG emissions could result in rises in sea level, including in San Francisco Bay, that could put at risk Oakland homes and businesses, costly infrastructure, and other public facilities. Energy efficiency is a key component in reducing GHG emissions, and construction of more energy efficient buildings can help Oakland reduce its share of the GHG emissions that contribute to climate change. The burning of fossil fuels used in the generation of electric power and

heating of buildings contributes to climate change, which could result in rises in sea level, including in the San Francisco Bay, that could put at risk Oakland homes, businesses, infrastructure, and public facilities.

This Chapter is also justified based on a local geological condition. The City of Oakland is subject to earthquake hazard caused by its proximity to the Hayward Fault. This fault is about seventy-four (74) miles long and runs along highway 13. The other fault is the San Andreas Fault to the west. These are major Northern California earthquake faults which may experience rupture at any time resulting in catastrophic results as demonstrated by the 1989 Loma Prieta Earthquake and the 1906 San Francisco Earthquake. Thus, because the City is within a seismic area which includes such faults, the modifications and changes cited herein are designed to better limit property damage as a result of seismic activity and to establish criteria for repair of damaged properties following a local emergency.

This Chapter is further justified based on topographic conditions that make the soil unstable and subject to catastrophic infrastructure failure, as seen during the San Bruno gas main rupture. The City of Oakland includes hillsides with narrow and winding access, which makes timely response by fire suppression vehicles difficult. Oakland is contiguous with the San Francisco Bay, resulting in a natural receptor for storm and wastewater run-off. Also, the City of Oakland is in an area that is potentially susceptible to liquefaction during a major earthquake. The surface condition consists mostly of stiff to dense sandy clay, which is highly elastic and expansive in nature. The conditions within the City create hazardous conditions that can lead to natural gas line failure, as we have seen in the Bay Area at a catastrophic level in San Bruno as recently as ten (10) years ago. As a result of these geologic conditions, departure from California Building Standards Codes is warranted.

As set forth in the City's November 2, 2020 Staff Report to City Council, the City Council also finds that this Ordinance and its local amendments are cost-effective. The transition to all-electric buildings envisioned in the 2030 ECAP and required by the City's proposed Carbon Neutrality Resolution must begin with new construction, where it is easiest and most cost-effective. In 2019, costs for all-electric new construction were already either on par with or less than those for mixed-fuel (i.e., electricity plus natural gas) construction. (*See* 2019 Cost-Effectiveness Study: Low-Rise Residential Construction prepared by Frontier Energy Inc. and Misti Bruceri & Associates, LLC and 2019 Nonresidential New Construction Reach Code Cost Effectiveness Study prepared by TRC and Energy Soft).

All-electric construction avoids the need for redundant infrastructure going to and within buildings, which reduces overall construction costs. Letters from Stone Energy Associates and Redwood Energy to the California Energy Commission in 2017 described the significant net cost savings per unit in multifamily projects due to the avoidance of

costly trenching and gas infrastructure. In 2018, the Rocky Mountain Institute found that new single-family, all-electric homes could "save $1,000 to more than $24,000 per single-family home, with a median value of $8,800." The Natural Resources Defense Council also found that all-electric new multi-family construction saw "upfront capital savings, partly [as] a result of not piping for gas." If the cost savings from avoiding gas infrastructure are invested in onsite photovoltaic (solar) energy generation, an all-electric building can be less expensive to operate from day one even without factoring in the reduced construction costs.

Moreover, as the Bay Area region experiences more and more extreme heat events, more Oaklanders are choosing to install air conditioning. Heat pumps—the most common efficient electric alternative to a gas furnace—provide both heating and cooling, avoiding the need for two separate systems.

Operating costs of all-electric buildings are similarly favorable. Modern electric appliances are significantly more efficient than gas appliances, using fewer units of energy for the same work. Electric heat pump water heaters are up to five times more efficient than gas water heaters. Moreover, electric energy costs can be offset through local renewable generation such as rooftop solar, while gas must be purchased from an outside source. All-electric buildings can achieve net-zero operational costs, which is impossible for buildings with gas appliances.

While gas rates are currently less than those of electricity, trends show it increasing at a faster pace. As more buildings become all-electric, gas infrastructure will become more costly to maintain, which will drive up gas rates further. The trend toward all-electric buildings statewide is clear, with an increasing number of cities pursuing all-electric local building codes, and a Statewide mandate for carbon neutrality by 2045.

Higher gas rates will increasingly fall on low-income households who have the highest energy cost burden to begin with. By ensuring that new buildings are all-electric, the City can better ensure that the benefits of decarbonized buildings—from improved public health to lower and more stable energy bills—can accrue to frontline communities.