

ORDINANCE NO. 1165

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO
ADDING CHAPTER 24 "ALL ELECTRIC CONSTRUCTION IN NEWLY
CONSTRUCTED RESIDENTIAL BUILDINGS" TO TITLE 9 "BUILDING
REGULATIONS" AND AMENDING CHAPTER 9-19 "GREEN BUILDING
REQUIREMENTS" FOR CONSISTENCY**

WHEREAS, the Town's Climate Action Plan sets forth Town goals and policies to combat climate change, promote clean energy use, and protect the environment; and

WHEREAS, the Climate Action Plan's Framework for a Post-Carbon Community has the strategy to "upgrade and replace carbon-intensive, fossil fuel-based infrastructure and combustion power throughout the transportation and building sectors with clean electric power"; and

WHEREAS, natural gas contains methane, which significantly contributes to pollution and climate change; and

WHEREAS, methane pollution from natural gas occurs throughout the natural gas system including leaks within buildings, and from household appliances; and

WHEREAS, the use of natural gas, including building-related natural gas infrastructure, produces significant greenhouse gas emissions that contribute to climate change; and

WHEREAS, the Town Council desires to require that all newly constructed residential buildings, with certain limited exceptions, be constructed to use all-electric power and make a minor amendment to Town Code section 9-19 "Green Building Requirements" for consistency (the "Ordinance Amendment"); and

WHEREAS, the Town Council determines that the Ordinance Amendment is necessary to protect the health, safety, and welfare of its residents pursuant to the Town's Constitutional Police Power authority; and

WHEREAS, the Town Council also determines pursuant to Health and Safety Code sections 17958.5, 17958.7, and 18941.4, that the Ordinance Amendment is reasonably necessary because of local climatic, geological, or topographical conditions as set forth in the findings herein; and

WHEREAS, on May 24, 2022, the Town Council held a duly noticed public hearing to consider the Ordinance Amendment.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO DOES ORDAIN AS FOLLOWS:

SECTION 1: Environmental Review. The Ordinance Amendment is exempt from the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines section 15378(b)(5) because it is not a “project” under CEQA; CEQA Guidelines section 15061(b)(3), the “common sense exemption”, because the proposed Ordinance Amendment will not have a significant environmental effect; and CEQA Guidelines section 15307 and 15308 as an action taken by a regulatory agency to protect the environment.

SECTION 2: The above recitals are true and correct and are incorporated as findings herein.

SECTION 3: Chapter 24 “All Electric Construction in Newly Constructed Residential Buildings” of Title 9 “Building Regulations” is hereby added as follows:

9-24.01 – Findings and Purpose.

The Town Council of the Town of San Anselmo expressly declares and finds that:

- (a) A primary component in natural gas is methane, which is a pollutant that significantly contributes to climate change.
- (b) The combustion of natural gas and leakage occurring during the procurement, transportation, storage, distribution, and usage of natural gas produces emissions of methane that contributes to climate change.
- (c) The adoption of this San Anselmo Municipal Code Chapter 9-24 “All Electric Construction in Newly Constructed Residential Buildings”, is reasonably necessary because of local climatic, geologic, and topographical conditions as set forth below:
 - (1) **Flooding Hazards.** The Town of San Anselmo has historically been subject to damaging floods during significant rain events due to the flooding of the San Anselmo Creek. Many areas of San Anselmo are located within flood zones subject to a high risk of flooding as defined by the Federal Emergency Management Agency. Extreme weather and sudden large rain events fueled by climate change have caused flood events in San Anselmo to become more common. Requiring newly constructed buildings to utilize only electric power will reduce greenhouse gas emissions that contribute to climate change and flooding events.
 - (2) **Wildfire Hazards.** The Town of San Anselmo is located near a wildland-urban interface area vulnerable to wildfires. The hilly topography of the Town combined with its narrow roads constrain the fire department’s ability to respond to fires. The Town of San Anselmo is also subject to drought conditions that have increased wildfire risk. The climatic conditions of drought, combined with the geologic and topographical conditions of the Town, significantly increase the risk of a catastrophic wildfire. Reducing the use of combustible natural gas and associated infrastructure will reduce fire risks, and reduce greenhouse gas emissions that contribute to climate change.
 - (3) **Seismic Hazards.** San Anselmo is located near several active seismic faults with the potential to cause damaging earthquakes. The San Andreas Fault runs north and south

in the Western side of Marin County approximately 9 miles from the Town, and several other faults are within 15 miles of the Town including the Hayward Fault, the Rodgers Creek Fault, and the San Gregorio Fault. Earthquakes can damage natural gas infrastructure causing gas leaks and significant fire hazards. New building electrification requirements and the accompanying reduction in natural gas use are reasonably necessary to reduce the risk of gas leaks and fire caused by earthquakes.

9-24.02– Applicability.

- (a) Unless exempt, the requirements of this chapter apply to all newly constructed residential buildings.
- (b) This chapter shall in no way be constructed to amend Energy Code requirements under Title 24 of the California Code of Regulations Part 6 or part 1, nor as requiring the use or installation of any specific appliance or system.
- (c) This chapter shall not apply to portable propane appliances as used for outdoor cooking and heating.

9-24.03 – Definitions. For the purposes of this chapter the following definitions apply:

- (a) “All electric building” means a building that uses a permanent supply of electricity as the source of energy for space heating, water heating (including pools and spas), cooking appliances, clothing drying appliances, that has no natural gas or propane plumbing installed in the building.
- (b) “Energy Code” means the California Energy Code as adopted in San Anselmo Municipal Code section 9-1.101.
- (c) “Newly constructed residential building” means a residential building that has never been used or occupied for any purpose, and has not been granted and/or is not subject to a valid building permit that remains in effect.

9-24.04 – Requirement for All Electric Construction in Newly Constructed Residential Buildings. A newly constructed residential building must satisfy the definition of an all electric building.

9-24.05 – Exemptions. The following are exempt from the requirements of this chapter. If an exemption applies, the newly constructed building shall remain subject to other applicable Town building codes including Chapter 9-19 “Green Building Requirements”.

- (a) The Building Official may allow natural gas infrastructure in a newly constructed residential building if the applicant establishes the building is not able to achieve the performance compliance standard under the Energy Code using commercially available technology or there is not an all-electric prescriptive compliance pathway under the Energy Code.
- (b) The Building Official may allow natural gas infrastructure in a newly constructed residential building if the applicant establishes that there is an equivalent greenhouse gas reduction to that of all-electric construction.
- (c) For all exemptions hereunder, natural gas appliance locations must also be electrically pre-wired for future electric appliance installation as approved by the Building Official.

9-24-06 – Objective Standard. The requirements of this chapter shall be determined to constitute “objective standards” under current and future State housing laws including but not limited to Government Code sections 65913.4 (SB35), 65589.5 (the Housing Accountability Act) and 65852.21 (SB9).

SECTION 4: Chapter 19 “Green Building Requirements” of Title 9 “Building Regulations” is amended as follows. Deleted language in ~~strikeout~~, new language in underline, existing language unchanged.

9-19-030 – Applicability

The provisions of this chapter shall apply to all construction or development projects defined below as a “covered project.” Notwithstanding anything to the contrary in this chapter, Chapter 9-24 “All Electric Construction in Newly Constructed Residential Buildings” shall apply to newly constructed buildings as defined in said chapter, unless exempt.

SECTION 5: Severability. The Town Council hereby declares every section, paragraph, sentence, clause, and phrase is severable. If any section, paragraph, sentence, clause or phrase of these ordinance amendments are for any reason found to be invalid or unconstitutional, such invalidity, or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses or phrases.

SECTION 6: Effective Date. This Ordinance Amendment shall go into effect thirty (30) days from its adoption and shall be posted or published as required by state law.

SECTION 7: Submission to California Building Standards Commission. The Ordinance Amendment shall be submitted to the California Building Standards Commission pursuant to State law.

INTRODUCED AND ADOPTED AT A PUBLIC HEARING at a regular meeting of the San Anselmo Town Council on June 28, 2022 by the following vote:

AYES: Fineman, Burdo, Burke, Greene, Colbert

NOES: None

ABSTAIN: None

ABSENT: None

RECUSED: None

ATTEST: Carla Kacmar
Carla Kacmar, Town Clerk

APPROVED: Alexis Fineman
Alexis Fineman, Mayor