

ORDINANCE NO. 2020-06

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA CRUZ ADDING A
NEW CHAPTER 6.100 TO THE SANTA CRUZ MUNICIPAL CODE PROHIBITING
NATURAL GAS INFRASTRUCTURE IN NEW BUILDINGS EFFECTIVE JULY 1, 2020

BE IT ORDAINED By the Council of the City of Santa Cruz as follows:

Section 1. That Chapter 6.100 of the Santa Cruz Municipal Code is added to read as follows:

Chapter 6.100

PROHIBITION OF NATURAL GAS INFRASTRUCTURE IN NEW BUILDINGS

Sections:

6.100.010 Findings and Purpose.

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6.100.100 Additional Remedies.

6.100.010 Findings and Purpose.

The City Council finds and expressly declares as follows:

- A. Scientific evidence has established that natural gas combustion as well as leakage occurring during natural gas procurement, transportation, storage, and distribution produce significant greenhouse gas emissions that contribute to global warming and climate change.
- B. The following addition to the Santa Cruz Municipal Code is reasonably necessary because of local climatic, geologic, and topographical conditions as listed below:
 - (1) As a coastal city located on the Monterey Bay, Santa Cruz is vulnerable to sea level rise, and human activities releasing greenhouse gases into the atmosphere causing increases in worldwide average temperature, which contribute to melting of glaciers, melting of ice floes, and thermal expansion of ocean water resulting in rising sea levels, reduced earth albedo, and cryosphere loss.
 - (2) Santa Cruz is already experiencing the repercussions of excessive greenhouse gas emissions as rising sea levels have threatened the City's shoreline, and have caused the City to expend funds to implement preliminary protective climate adaptation measures inasmuch as the City of Santa Cruz projects that by the end of the century nearly \$1B in property and infrastructure are exposed to the threats of coastal climate hazards.
 - (3) Santa Cruz is situated along a wildland-urban interface (WUI) and is extremely vulnerable to wildfires and firestorms, and human activities releasing greenhouse gases into the atmosphere cause an increase in worldwide average temperature, seasonal wind, rain, and drought conditions, altered vegetative fuel, altered diurnal temperature and humidity, and length and intensity of fire seasons.
 - (4) Santa Cruz is vulnerable to increased threat from new and newly mutated airborne, avian, insect, and rodent borne pathogens arising from altered temperature and humidity conditions in both the natural and built environment.
 - (5) Structures in Santa Cruz are located along or near the San Andreas, Zayante□Vergeles, San Gregorio, and Monterey Bay□Tularcitos faults, which collectively and individually, maintain the potential to produce serious damage, fires, and or explosions as a result of damage to natural gas infrastructure in buildings due to unforeseeable seismic activity.
- C. The following addition to the Santa Cruz Municipal Code is also reasonably necessary because of health and safety concerns as Santa Cruz residents suffer from asthma and other health conditions associated with poor indoor and outdoor air quality exacerbated by the combustion of natural gas.

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- D. As described in the City of Santa Cruz Climate Action Plan (Resolution No. NS-28,564) and Santa Cruz Climate Emergency Declaration (Resolution No. NS-29,462) rapid, far-reaching and unprecedented changes in all aspects of society are required to limit global warming and the resulting environmental threat posed by climate change, including the prompt phasing out of natural gas as a fuel for heating and cooling infrastructure in new buildings.
- E. Substitute electric heating and cooling infrastructure in new buildings fueled by less greenhouse gas intensive electricity is linked to significantly lower greenhouse gas emissions and is cost competitive because of the aggregate cost savings associated with all electric designs that avoid new gas infrastructure and increasing natural gas fuel prices.
- F. All-electric building design benefits the health, welfare, and resiliency of Santa Cruz and its residents.
- G. 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 inasmuch as projects can take full advantage of avoided costs and space requirements from the elimination of natural gas piping and equipment venting systems.
- H. The intent of this Chapter is to eliminate natural gas infrastructure and associated greenhouse gas emissions in new buildings where all-electric infrastructure can be most practicably integrated, thereby reducing the environmental and health hazards produced by the consumption and transportation of natural gas.

6.100.020 Applicability.

- A. The requirements of this Chapter apply to Design Permit applications submitted on or after the effective date of the Chapter for all Newly Constructed Buildings as defined in the ordinance, proposed to be located in whole or in part within the City. The prohibition of Natural Gas Infrastructure shall apply in perpetuity, unless a separate exemption applies pursuant to the provisions of the Chapter.
- B. The requirements of the Chapter also apply to all Building Permit applications for Newly Constructed Buildings not requiring a Design Permit when such Building Permit application is submitted 120 or more days following the effective date of this Chapter for all Newly Constructed Buildings proposed to be located in whole or in part within the City. Said applications must be deemed Natural Gas-Free Confirmed at submission with a declaration on the architectural drawings cover sheet: “Natural Gas-Free Design”. The prohibition of Natural Gas Infrastructure shall apply in perpetuity, unless a separate exemption applies pursuant to the provisions of the Chapter.
- C. The requirements of this Chapter shall not apply to the use of portable propane appliances for outdoor cooking, refrigeration, and heating.

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- D. This chapter shall in no way be construed as amending California Energy Code requirements under California Code of Regulations, Title 24, Part 6, nor as requiring the use or installation of any specific appliance or system as a condition of approval.
- E. The requirements of this Chapter shall be incorporated into conditions of approval for Design Permits issued pursuant to SCMC Title 24.08 of this Code.

6.100.030 Definitions.

- A. “Applicant” shall mean an applicant for a Building Permit under SCMC Title 18.04 or a Design Permit under SCMC Title 24.08.
- B. “Energy Code” shall mean the California Energy Code as adopted in SCMC 18.04.30.
- C. “Greenhouse Gas Emissions” mean gases that trap heat in the atmosphere.
- D. “Natural Gas” shall have the same meaning as “Fuel Gas” as defined in California Plumbing Code and Mechanical Code.
- E. “Natural Gas Infrastructure” shall be defined as fuel gas piping, other than service pipe, in or in connection with a building, structure or within the property lines of premises, extending from the point of delivery at the gas meter as specified in the California Mechanical Code and Plumbing Code.
- F. “Newly Constructed Building” shall be defined as in the California Building Code Section 202 as: “a building that has never before been used or occupied for any purpose.”
- G. “Design Permit” shall be defined as in SCMC Title 24 Chapter 24.08.
- H. “Restaurant” shall be defined as any Newly Constructed Building with construction plans for a restaurant, commercial kitchen, or similar related occupancies with specified kitchen containing food cooking equipment, including stationary, outdoor kitchens.
- I. “Facility Employing Industrial Process Heat” shall be defined as any Newly Constructed Building including process equipment for sustained temperatures typically in excess of 350°F for which the industrial process temperatures required are demonstrably not achievable with commercial electric equipment.
- J. “New Construction Detached Accessory Dwelling Unit” any accessory dwelling unit that includes new construction, does not share a wall, ceiling or flooring with an existing residential structure, and which does not meet the definition and requirements for a conversion accessory dwelling unit SCMC 24.16.125.
- K. “Natural Gas Free Confirmed” any Newly Constructed Building design utilizing no Fuel Gas as defined in California Plumbing Code and Mechanical Code.

6.100.040 Prohibited Natural Gas Infrastructure in Newly Constructed Buildings.

- A. Except as set forth in Subsection A.1 and A.2 and Sections 6.100.50, 6.100.55, and 6.100.60, below, Natural Gas Infrastructure shall be prohibited in Newly Constructed Buildings.
1. Exception: Natural Gas Infrastructure may be permitted in a Newly Constructed Building if the Applicant establishes that it is not physically feasible to construct the building without Natural Gas Infrastructure. For purposes of this exception, “physically feasible” to construct the building means either an all-electric prescriptive compliance approach is available for the building under the Energy Code or the building is able to achieve the performance compliance standards under the Energy Code using commercially available technology and an approved calculation method.
 2. Exception: Newly Constructed Buildings are allowed to extend inactive Natural Gas infrastructure to commercial or industrial spaces that are anticipated to qualify for the exceptions contained in this chapter. The inactive Natural Gas Infrastructure shall not be activated or otherwise used unless the exemptions specified in this chapter have been confirmed as part of the issuance of a building permit.
- B. To the extent that Natural Gas Infrastructure is permitted, it shall be permitted to extend to any system, device, or appliance within a building for which an equivalent all-electric system or design is not available.
- C. Newly Constructed Buildings shall nonetheless be required at a minimum to have sufficient reserved circuit breakers and electrical conduit to facilitate future full building electrification as certified by affidavit of either a Registered Design Professional or a Licensed Electrical Contractor.
- D. 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.

6.100.050 Public Interest Exemption.

- A. Notwithstanding the requirements of this Chapter and the Greenhouse Gas Emissions and other public health and safety hazards associated with Natural Gas Infrastructure, minimally necessary and specifically tailored Natural Gas Infrastructure may be allowed in a Newly Constructed Building provided that the entitling or permitting body establishes that the use serves the public interest. In determining whether the construction of Natural Gas Infrastructure is in the public interest, the City may consider:
1. The availability of alternative technologies or systems that do not use natural gas;
 2. Any other impacts that the decision to allow Natural Gas Infrastructure may have on the health, safety, or welfare of the public.

- B. If the installation of Natural Gas Infrastructure is granted under a public interest exemption, the Newly Constructed Buildings shall nonetheless be required at the minimum to have sufficient reserved circuit breakers and electrical conduit to facilitate future full building electrification as certified by affidavit of either a Registered Design Professional or a Licensed Electrical Contractor.

6.100.055 Revocable Building and Infrastructure Exemptions

Notwithstanding the requirements of this Chapter and the Greenhouse Gas Emissions and other public health and safety hazards associated with Natural Gas Infrastructure, minimally necessary and specifically tailored Natural Gas Infrastructure shall be allowed in a New Constructed Building on a revocable basis limited to the duration of time during for which one the conditions set forth below are satisfied and the building continues occupancy as the original design specified in the Construction Drawings permitted by the City as a Newly Constructed Building:

- A. Restaurant. A Newly Constructed Building meeting the definition of Restaurant in 6.100.030. The scope of the exemption extends to the preparation of food only, not HVAC, or water heating appliances.
- B. Facility Employing Industrial Process Heat. A Newly Constructed Building meeting the definition of Facility Employing Industrial Process Heat in 6.100.030 as certified by affidavit of either a Registered Design Professional or a Licensed Mechanical or Electrical Contractor. The scope of the exemption extends to process equipment only, not HVAC or water heating appliances.
- C. New Construction Detached Accessory Dwelling Unit \leq 750 Square Feet on a parcel with an existing residential structure with existing Natural Gas Infrastructure. A Newly Constructed Building of less than or equal to 750 square feet conditioned floor area which meets the definition of New Construction Detached Accessory Dwelling Unit in 6.100.030 and will be constructed on a parcel with an existing residential structure with Natural Gas Infrastructure serving it at the time of permit application, where both the existing residential structure and Natural Gas Infrastructure serving it shall remain intact at the time of receipt of Certificate of Occupancy for the same exempted New Construction Detached Accessory Dwelling Unit \leq 750 Square Feet. The scope of the exemption extends to HVAC and water heating appliances. The scope of the exemption does not extend to indoor cooking appliances in order to provide uniform reduction in indoor air quality hazards across all residential Newly Constructed Buildings.

6.100.057 Revocation of Natural Gas Infrastructure Exemption

At such time as the conditions of the applicable Revocable Building and Infrastructure Exemption of Section 6.100.055 cease to be satisfied, the Natural Gas delivery infrastructure shall either be capped, otherwise terminated, or removed by the entity previously entitled to the exemption, in a manner pursuant to all applicable Codes.

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6.100.060 Appeals.

- A. The decision on whether a building is exempt from the provisions of this Chapter based on the use of the building for potential future uses, as specified in Section 6.100.040; for furthering the public interest, as specified in Section 6.10.050; for Restaurant, as specified in Section 6.100.055(A); or for New Construction Accessory Dwelling Unit \leq 750 Square Feet, as specified in Section 6.100.055(C), is made by the Zoning Administrator without the need for a hearing and the decision is appealable to the Planning Commission.
- B. The decision on whether a building is exempt from the provisions of this Chapter based on physical feasibility in Section 6.100.040 or Facility Employing Industrial Process Heat in Section 6.100.055(B) is made by the Chief Building Official and the decision is appealable to the Building Board of Appeals.

6.100.070 Severability.

If any word, phrase, sentence, part, section, subsection, or other portion of this Chapter, or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this Chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City Council hereby declares that it would have passed this title, and each section, subsection, sentence, clause and phrase of this Chapter, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases is declared invalid or unconstitutional.

6.100.080 Effective Date.

- A. The provisions of this chapter shall become effective on July 1, 2020.
- B. This Ordinance shall be submitted to the California Building Standards Commission following adoption as consistent with state law.

6.100.090 Violations.

Violation Penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or install, alter, repair or do work in violation of the approved construction documents or of a permit or certificate issued under provisions of this Chapter, shall be guilty of an infraction.

Acts denominated as infractions shall not be punishable by imprisonment. Every violation determined to be an infraction is punishable by:

- 1. A fine not exceeding one hundred dollars for a first violation and discontinuance of fuel gas service;

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2. A fine not exceeding two hundred dollars for a second violation of the same provision of this code within one year and discontinuance of fuel gas service;
3. A fine not exceeding five hundred dollars for each additional violation of the same provision of this code within one year and discontinuance of fuel gas service.

A person charged with an infraction shall not be entitled to a trial by jury. A judgment that a person convicted of an infraction be punished by fine may also provide for the payment to be made within a specified time or in specified installments, contingent upon the person giving his or her written promise to either pay the fine as provided. Any person who willfully violates any such written promise is guilty of a misdemeanor. Each day that a violation continues after due notice has been served shall be deemed a separate offense. Nothing contained herein shall be deemed to limit the City's authority to enforce the provisions of this Chapter pursuant to any other authority specified in the municipal code, or any other applicable state law.

6.100.100 Additional Remedies

In addition to criminal prosecution pursuant to Section 6.100.090, above, any person, firm, or corporation violating any provisions of this chapter shall be subject to the remedies provided in Title 4 or alternatively delineated in the Santa Cruz County superior court uniform bail and penalty schedule for the city of Santa Cruz.

Section 2. This ordinance shall be incorporated into the municipal code thirty (30) days after final adoption, and the effective date of when this ordinance is in full force shall be as specified in Section 6.100.080.

PASSED FOR PUBLICATION this 24th day of March, 2020, by the following vote:

AYES: Councilmembers Watkins, Mathews, Brown, Glover, Krohn; Vice Mayor Meyers; Mayor Cummings.

NOES: None.

ABSENT: None.

DISQUALIFIED: None.

APPROVED: _____
Justin Cummings, Mayor

ATTEST: _____
Bonnie Bush, City Clerk Administrator

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PASSED FOR FINAL ADOPTION this day of , 2020 by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Justin Cummings, Mayor

ATTEST: _____
Bonnie Bush, City Clerk Administrator

This is to certify that the above and foregoing document is the original of Ordinance No. 2020-06 and that it has been published or posted in accordance with the Charter of the City of Santa Cruz.

Bonnie Bush, City Clerk Administrator