

ORDINANCE NO. _____ (2023 SERIES)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN LUIS OBISPO, CALIFORNIA, ADOPTING LOCAL AMENDMENTS TO PART 6 OF THE BUILDING CONSTRUCTION AND FIRE PREVENTION CODE, 2023.

WHEREAS, greenhouse gas accumulation in the atmosphere as the result of human activity is the primary cause of the global climate crisis; and

WHEREAS, in California alone, the initial impacts of climate change have resulted in unprecedented disasters with tremendous human, economic, and environmental costs and;

WHEREAS, the Intergovernmental Panel on Climate Change estimates that global emissions need to be reduced by 45 percent from 2010 levels by 2030, and 100 percent by 2050 to prevent global catastrophe; and

WHEREAS, the State of California enacted Assembly Bill (AB) 1279 to require statewide carbon neutrality "as soon as possible," but no later than 2045; and

WHEREAS, City of San Luis Obispo residents and businesses have repeatedly identified climate action as a top community priority; and

WHEREAS, Resolution 11159 (2020 Series) adopts the City of San Luis Obispo Climate Action Plan for Community Recovery, which includes a communitywide goal of carbon neutrality by 2035 and sector specific goal of no net new building emissions from onsite energy use by 2020; and

WHEREAS, Resolution 11381 (2022 Series) reaffirmed the communitywide goal of carbon neutrality by 2035 and sector specific goal of no net new building emissions from onsite energy use by 2020; and

WHEREAS, the inventoried greenhouse gas emissions in the City of San Luis Obispo come from a variety of sources, primarily transportation and energy use in buildings and facilities; and

WHEREAS, in order to achieve carbon neutrality, new sources of greenhouse gas emissions need to be substantially reduced or eliminated; and

WHEREAS, Public Resources Code Section 25402.1 (h)(2) allows local agencies to adopt more stringent local amendments to the energy conservation provisions in the California Energy Code; and

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WHEREAS, the California Energy Codes and Standards Statewide Utility Program, has determined specific modifications to the 2022 State Energy Code for each climate zone that are cost-effective; and that such modifications will result in designs that consume less energy than they would under the 2022 State Energy Code; and

WHEREAS, staff has reviewed the "2022 Cost-Effectiveness Study: Single Family New Construction Study" and associated study data, the "2022 Cost-Effectiveness Study: Multifamily New Construction Study" and associated study data, and the "2022 Code: Non-Residential New Construction Reach Code Cost-Effectiveness Study" and associated data developed for the California Energy Codes and Standards Statewide Utility Program, and find them sufficient to illustrate compliance with the requirements set forth under California Administrative Code Chapter 10-106; and

WHEREAS, based on these studies, the City finds the proposed local amendments to the 2022 California Energy Code to be cost-effective and consume less energy than permitted by Title 24, Part 6; and

WHEREAS, the 2022 California Energy Code offers compliance options that were established through the public rulemaking process of the code update; and

WHEREAS, the Council expressly declares that the proposed amendments to the Energy Code are reasonably necessary because of local climatic, topological, and geological conditions; and

WHEREAS, the requirements specified in this Ordinance were reviewed via public comment and through a publicly noticed public hearing process.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of San Luis Obispo as follows:

SECTION 1. Purpose. It is the purpose and intent of this Ordinance to establish standards for new buildings to exceed minimum 2022 Title 24 Part 6 requirements.

SECTION 2. Adoption. The local amendments to Part 6 of the City of San Luis Obispo Building Construction and Fire Prevention Code, 2023 (SLOMC Section 15.02.060) as specified in Exhibit A, are hereby adopted by the City of San Luis Obispo to be codified under Chapter 15.04.060. The Council hereby adopts the recitals herein as separate and additional findings of fact in support of adoption of the ordinance.

SECTION 3. Relationship to Administrative Order 01 (2023 Series) and Supersedure by Municipal Code Chapter 8.11. By its terms, Administrative Order 01 (2023 Series), which paused enforcement of the City's all-electric new building requirement (SLOMC Chapter 8.11), is rescinded upon any judicial decision which overturns or otherwise vacates the Ninth Circuit panel ruling issued in *California Restaurant Association v. City of Berkeley*. Should this occur, enforcement of Chapter 8.11 will resume, and enforcement of Section 15.04.060 as adopted herein will be suspended.

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SECTION 4. Severability. If any word, phrase sentence part, section, subsection or other portion of this amendment 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 amendment, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The City of San Luis Obispo hereby declares that it would have passed this amendment and each section, subsection sentence, clause and phrase of this amendment, irrespective of the fact that any one or more sections, subsection, sentences, clauses or phrases is declared invalid or unconstitutional.

SECTION 5. Findings. The City Council finds that each of the changes or modifications to measures referred to therein are reasonably necessary because of local climatic, geological, or topographical conditions in the area encompassed by the boundaries of the City of San Luis Obispo, and the City Council adopts the following findings in support of local necessity for the changes or modifications:

1. San Luis Obispo is situated along a wildland-urban interface and has been identified as a Community at Risk from wildfire and is extremely vulnerable to wildfires and firestorms, and human activities releasing greenhouse gases into the atmosphere cause increases in worldwide average temperature, drought conditions, vegetative fuel, and length of fire seasons- contributing to the likelihood and consequences of fire.
2. The City of San Luis Obispo is situated at the base of a watershed of the Santa Lucia Mountains and flooding of San Luis, Chorro, Stenner, Old Garden, and Brizzolara Creeks results in conditions rendering fire department vehicular traffic unduly burdensome or impossible, as witnessed in major floods that occurred in 1952, 1961, 1969, 1973, 1978, 1982, 1995, and 2023. Furthermore, flood conditions described above create the potential for overcoming the ability of the fire department to aid or assist in fire control, evacuations, rescues and other emergency task demands inherent in such situations. The resulting overburdening of fire department personnel may cause a substantial or total lack of protection against fire for the buildings and structures located in the City of San Luis Obispo. The afore-described conditions support the imposition of fire protection requirements greater than those set forth in the California State Building Standards Code and support the imposition of more restrictive requirements than set forth in the California Energy Code for the purpose of reducing the City's contributions to Greenhouse Gas Emissions resulting in a warming climate and related severe weather events.
3. The aforementioned flood and rain events result in conditions wherein stormwater can inundate the wastewater treatment system as witnessed in major floods that occurred in 1952, 1961, 1969, 1973, 1978, 1982, and 1995. Furthermore, rain events and flood conditions described above create a condition referred to as Inflow and Infiltration (I/I) that allow rain and flood waters to flow and/or seep into the wastewater system and overcome the ability

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of the wastewater collection system and Water Reclamation Facility (WRF) to convey and treat sewage. The resulting overburdening of the wastewater system can result in threats to public health, public and private property and water quality and violations and fines from the State of California, the Environmental Protection Agency (EPA) or others. To the extent that climate change has the potential to make these conditions worse, more restrictive Energy Code requirements to achieve reduced greenhouse gas emissions are necessary.

4. Seasonal climatic conditions during the late summer and fall create numerous serious difficulties in the control and protection against fire situations in the City of San Luis Obispo. The hot, dry weather in combination with Santa Lucia (offshore) winds frequently results in wildland fires in the brush-covered slopes on the Santa Lucia Mountains, San Luis Mountain, and the Irish Hills areas of the City of San Luis Obispo. The aforementioned areas surround the City. When a fire occurs in said areas, such as occurred in 1985 when the Los Pilitas fire burned six days and entered the City and damaged many structures, the entirety of local fire department personnel is required to control, monitor, fight and protect against such fire situations in an effort to protect life and preserve property and watershed land. The same climatic conditions may result in the concurrent occurrence of one or more fires in the more populated areas of the City without adequate fire department personnel to protect against and control such a situation. Therefore, the above-described findings support the imposition of measures to increase the efficiency of new buildings in the City to reduce greenhouse gas emissions.

SECTION 6. CEQA. This ordinance is categorically exempt from CEQA because it is an action taken by a regulatory agency for the purpose of protecting the environment (CEQA Guidelines Section 15308). In addition, this ordinance is exempt from CEQA under the general rule, 15061(b)(3), on the grounds that these standards are more stringent than the State energy standards, there are no reasonably foreseeable adverse impacts, and there is no possibility that the activity in question may have a significant effect on the environment. The following findings are made in support of these determinations:

1. The purpose of the implementation of a Reach Code is to reduce the amount of greenhouse gas emissions in the City of San Luis Obispo that are produced from buildings.
2. The Reach Code approval process requires that the City determines that the local standards will require buildings to use no more energy than current statewide requirements. Furthermore, the California Energy Commission approval process requires that the City make the findings as part of its approval process. Therefore, the Reach Code standards can only go into effect if they protect the environment by making buildings more efficient.

SECTION 7. Violations. Violation of the requirements of this Ordinance shall be considered, at the City’s election, an infraction of the City of San Luis Obispo Municipal Code punishable by all sanctions prescribed in Chapter 1.12, or an administrative violation punishable as provided under Chapter 1.24.

SECTION 8. Effective Date. This Ordinance shall be effective as of January 1, 2024.

SECTION 9. Ordinance Summary. A summary of this ordinance, together with the names of Council members voting for and against, shall be published at least five (5) days prior to its final passage, in The New Times, a newspaper published and circulated in this City. This ordinance shall go into effect at the expiration of thirty (30) days after its final passage.

INTRODUCED on the _____ day of _____ 2023, **AND FINALLY ADOPTED** by the Council of the City of San Luis Obispo on the ____ day of ____, 2023, on the following vote:

- AYES:
- NOES:
- ABSENT:

Mayor Erica A. Stewart

ATTEST:

Teresa Purrington
City Clerk

APPROVED AS TO FORM:

J. Christine Dietrick
City Attorney

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Luis Obispo, California, on _____.

Teresa Purrington, City Clerk

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Exhibit A
Section 15.04.060
AMENDMENTS - ENERGY STANDARDS

A. Adoption of Codes and Applicability

The effective date of this ordinance shall be January 1, 2024 and is applicable to newly constructed buildings and facilities, and those that are built after a demolition. The minimum energy compliance margin standards established in this code shall apply to all applicable buildings accordingly. The amendments contained in 15.04.060 do not apply to additions, alterations, or repairs to buildings or facilities constructed prior to the effective date of this ordinance.

B. Add Item D to Subchapter 1, Section 100.0(e)3, to read as follows:

D. Prohibited reduction in source energy performance. No repair, addition, or alteration shall reduce the efficiency of any building or facility, as determined by the source energy compliance margin.

C. Add the following definition to Subchapter 1, Section 100.1(b):

DEMOLITION is the act of reconstructing, removing, taking down or destroying all or portions of an existing building or structure, or making extensive repairs or modifications to an existing building or structure, if such changes involve removal or replacement of fifty percent or more of both the structural framing and cladding or of the exterior walls within a twenty-four-month period. When determining whether a building or structure is demolished, the following applies:

1. The nonconforming portions of any wall are counted as removed or taken down, even when retention of these portions is proposed.
2. Any continuous run of remaining exterior wall surfaces measuring ten feet or less in length are counted as removed or replaced.

D. Add Section 120.11 to Subchapter 3, to read as follows:

120.11 Electric Readiness Requirements for All Systems

Where nonresidential systems using gas or propane are installed, the construction drawings shall indicate a pathway for routing of conduit from the equipment using gas or propane to the point of interconnection with the electrical service.

E. Delete Section 140.1 from Subchapter 5, and replace with new Section 140.1 to read as follows:

A building complies with the performance approach provided that:

1. The TDV energy budget calculated for the Proposed Design Building under Subsection (b) is no greater than the TDV energy budget calculated for the Standard

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Design Building under Subsection (a), and

2. The energy budget calculated for the proposed design building under Subsection (b) has a source energy compliance margin, relative to the energy budget calculated for the standard design building under Subsection (a), of at least 7 percent for all nonresidential occupancies.

Exception to Section 140.1 item 2. A source energy compliance margin of at least 7 percent is not required when nonresidential occupancies are designed with single zone space-conditioning systems complying with Section 140.4(a)2.

(a) Energy budget for the standard design building. The energy budget for the Standard Design Building is determined by applying the mandatory and prescriptive requirements to the proposed design building. The energy budget is the sum of the TDV energy for space-conditioning, indoor lighting, mechanical ventilation, photovoltaic (PV) and battery storage systems, service water heating and covered process loads.

(b) Energy budget for the proposed design building.

The energy budget for a proposed design building is determined by calculating the TDV energy for the proposed design building. The energy budget is the sum of the TDV energy for space-conditioning, indoor lighting, mechanical ventilation, photovoltaic (PV) and battery storage systems, and service water heating and covered process loads.

Exception to Section 140.1(b). A community shared solar electric generation system, or other renewable electric generation system, and/or community shared battery storage system, that provides dedicated power, utility energy reduction credits or payments for energy bill reductions to the permitted building and is approved by the Energy Commission as specified in Title 24, Part 1, Section 10-115, may offset part or all of the solar electric generation system or battery storage system TDV energy required to comply with the standards, as calculated according to methods established by the Commission in the Nonresidential ACM Reference Manual.

(c) Calculation of energy budget. The TDV energy for both the standard design building and the proposed design building shall be computed by compliance software certified for this use by the Commission. The processes for compliance software approval by the Commission are documented in the ACM Approval Manual.

Note: Authority: Sections 25213, 25218, 25218.5, 25402 and 25402.1, Public Resources Code. Reference: Sections 25007, 25008, 25218.5, 25310, 25402, 25402.1, 25402.4, 25402.5, 25402.8, and 25943, Public Resources Code.

G. Amend Subchapter 8, Section 150.1(b) to read as follows, with items 2 and 3 to remain:

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(b) Performance Standards. A building complies with the performance standards if the energy consumption calculated for the proposed design building is no greater than the energy budget calculated for the standard design building using Commission-certified compliance software as specified by the Alternative Calculation Methods Approval Manual, and as specified in items 1, 2 and 3 below.

1. Newly Constructed Buildings. The Energy Budget for newly constructed buildings is expressed in terms of the Energy Design Ratings, which are based on source energy and time-dependent valuation (TDV) energy. The Energy Design Rating 1 (EDR1) is based on source energy. The Energy Design Rating 2 (EDR2) is based on TDV energy and has two components, the Energy Efficiency Design Rating, and the Solar Electric Generation and Demand Flexibility Design Rating. The total Energy Design Rating shall account for both the Energy Efficiency Design Rating and the Solar Electric Generation and Demand Flexibility Design Rating. The proposed building shall separately comply with the Source Energy Design Rating, Energy Efficiency Design Rating and the Total Energy Design Rating. A newly constructed building complies with the performance approach if the TDV energy budget calculated for the proposed design building is no greater than the TDV energy budget calculated for the Standard Design Building AND the Source Energy compliance margin is at least 6, relative to the Source Energy Design Rating 1 calculated for the Standard Design building.

EXCEPTION 1 to Section 150.1(b)1. A community shared solar electric generation system, or other renewable electric generation system, and/or community shared battery storage system, which provides dedicated power, utility energy reduction credits, or payments for energy bill reductions, to the permitted building and is approved by the Energy Commission as specified in Title 24, Part 1, Section 10-115, may offset part or all of the solar electric generation system Energy Design Rating required to comply with the Standards, as calculated according to methods established by the Commission in the Residential ACM Reference Manual.

EXCEPTION 2 to Section 150.1(b)1. A newly constructed building that does not require a PV system in accordance with section 150.1(c)14 does not need a Source Energy compliance margin of at least 6, relative to the Source Energy Design Rating 1 calculated for the Standard Design building.

I. Add Section 160.9(d), to read as follows:

160.9(d) Central Water Heater Readiness

Where a multi-family central water heating system using gas or propane is installed, the construction drawings shall indicate a pathway for routing of conduit from the equipment using gas or propane to the point of interconnection with the electrical service.

J. Amend Subchapter 11, Section 170.1, paragraph 1, to read as follows:

A building complies with the performance approach if the TDV energy budget calculated for the proposed design building under Subsection (b) is no greater than the TDV energy budget calculated for the Standard Design Building under Subsection (a). Additionally:

1. The source energy budget of a newly constructed multifamily building (with three or less habitable stories) shall be at least 9% lower than that of the Standard Design Building.
2. The source energy budget of newly constructed multifamily buildings (with four or more habitable stories) shall be at least 3% lower than that of the Standard Design Building.