

ORDINANCE NO. __, NEW SERIES

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL ADDING CHAPTER 15.63 (PROHIBITION OF NATURAL GAS INFRASTRUCTURE IN NEW BUILDINGS) TO TITLE 15 (BUILDINGS AND CONSTRUCTION) TO THE MORGAN HILL MUNICIPAL CODE PROHIBITING NATURAL GAS INFRASTRUCTURE IN NEW BUILDINGS EFFECTIVE JANUARY 1, 2020

THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 15.63 of the Morgan Hill Municipal Code is hereby added to read as follows:

Chapter 15.63

PROHIBITION OF NATURAL GAS INFRASTRUCTURE IN NEW BUILDINGS

Sections:

15.63.010 Findings and Purpose.

15.63.020 Applicability.

15.63.030 Definitions.

15.63.040 Prohibited Natural Gas Infrastructure in Newly Constructed Buildings.

15.63.050 Public Interest Exemption.

15.63.060 Periodic Review of the Ordinance.

15.63.070 Severability.

15.63.080 Effective Date.

15.63.010 Findings and Purpose.

The Council finds and expressly declares as follows:

- A. Scientific evidence has established that natural gas combustion, procurement and transportation produce significant greenhouse gas emissions that contribute to global warming and climate change.
- B. The following addition to the Morgan Hill Municipal Code is reasonably necessary because of local climatic, geologic and topographical conditions as listed below:
 - (1) Morgan Hill is situated along a wildland-urban interface 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.
 - (2) Morgan Hill relies on water imported into the region for groundwater recharge and climate change is already causing changes in rainfall and snowfall which threaten to interrupt the supply of imported water.
 - (3) Structures in Morgan Hill are located along or near the Calaveras fault and the City is close enough to the San Andreas and Hayward faults. All of these faults are capable of producing large earthquakes in the Bay Area.
- C. The following addition to the Morgan Hill Municipal Code is also reasonably necessary because of health and safety concerns as Morgan Hill residents suffer

from asthma and other health conditions associated with poor indoor and outdoor air quality exacerbated by the combustion of natural gas.

- D. 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 cost savings associated with all- electric designs that avoid new gas infrastructure.
- E. All-electric building design benefits the health, welfare, and resiliency of Morgan Hill and its residents.
- F. 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 and the project can take full advantage of avoided costs and space requirements from the elimination of natural gas piping and venting for combustion air safety.
- G. It is the intent of the council to eliminate obsolete 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.

15.63.020 Applicability.

- A. The requirements of this Chapter shall apply to Building Permit Applications submitted on or after the effective date of this Chapter for all Newly Constructed Buildings proposed to be located in whole or in part within the City.
- B. The requirements of this Chapter shall not apply to the use of portable propane appliances for outdoor cooking and heating.
- C. 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.

15.63.030 Definitions.

- A. "Applicant" shall mean an applicant for a Building Permit Application.
- B. "Energy Code" shall mean the California Energy Code as amended and adopted in MHMC Chapter 15.12.
- 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 a building that has never before been used or occupied for any purpose.

15.63.040 Prohibited Natural Gas Infrastructure in Newly Constructed Buildings.

- A. 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.

- 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 electric capacity, wiring and conduit to facilitate future full building electrification.
- 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.

15.63.050 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 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 electric capacity, wiring and conduit to facilitate future full building electrification.

15.63.060 Periodic Review of Ordinance.

The City shall review the requirements of this ordinance every 18 months for consistency with the California Energy Code and the Energy Commission's mid-cycle amendments and triennial code adoption cycle as applicable.

Section 2. This Ordinance shall be submitted to the California Building Standards Commission following adoption as consistent with state law.

Section 3. Severability. Should any provision of this ordinance be deemed unconstitutional or unenforceable by a court of competent jurisdiction, such provision shall be severed from the ordinance, and such severance shall not affect the remainder of the ordinance.

Section 4. This Ordinance shall take effect on March 1, 2020. The City Clerk is hereby directed to publish this Ordinance or a summary thereof pursuant to Government Code Section 36933.

This ordinance was introduced at a meeting of the City Council held on the _____ day of _____, 20__, and adopted at a meeting held on the _____ day of _____, 20__, and said ordinance was duly passed and adopted in accordance with law by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

APPROVED:

RICH CONSTANTINE, Mayor

ATTEST:

IRMA TORREZ, City Clerk

DATE: _____

Effective: xxxxxx

CERTIFICATE OF THE CITY CLERK

I, **IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA**, do hereby certify that the foregoing is a true and correct copy of Ordinance No. xxxx, New Series, adopted by the City Council of the City of Morgan Hill, California at their regular meeting held on the 6TH day of November 2019.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE: _____

IRMA TORREZ, City Clerk