

REPORT TO CITY COUNCIL

DATE: JUNE 23, 2021

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: NATHAN HAMBURGER, CITY MANAGER

BY: RAMIRO ADEVA, ASSISTANT CITY MANAGER

SUBJECT: UPDATE ON PHASE 2 OF THE DRAFT CLIMATE ACTION AND ADAPTATION PLAN (CAAP); DISCUSS MANDATES VERSUS INCENTIVES FOR ELECTRIFICATION OF NEW RESIDENTIAL AND COMMERCIAL DEVELOPMENTS; UPDATE ON BUDGET IMPACTS

On March 10, 2021, the City Council (Council) approved the draft Climate Action and Adaptation Plan (CAAP), which established, among other things, a set of goals, reduction measures, and City actions to decrease greenhouse gas emissions. The CAAP forms the foundation for ensuring compliance with state mandates, maintains City-control of an implementation strategy that is sensitive to community needs, and aligns with ultimate goals of long-term sustainability.

Preparing the City's CAAP is a three-phase process as follows:

- Phase 1-Preparation of the draft CAAP (complete)
- Phase 2-California Environmental Quality Act (CEQA) analysis and adoption of the final CAAP (current phase)
- Phase 3-Implementation (screening tables and monitoring plan)

The primary objective of Phase 2 is to prepare and certify the environmental document in compliance with the California Environmental Quality Act (CEQA), and to adopt the Final CAAP. Additionally, as previously mentioned, Phase 2 includes further discussion on the following two topics introduced during Phase 1:

1. Electrification for New Residential and Commercial Developments, and
2. Budget Impact of the CAAP

With regard to electrification of "New Residential," the draft CAAP currently mandates "*all new residential developments proposing two (2) or more dwelling units to achieve 100 percent electrification.*"

Staff is seeking feedback and/or direction on whether the Council wants to revise this language to mandate all new residential developments, regardless of number of dwelling units, to achieve 100 percent electrification, and include language with specific exemptions.

For example, a home destroyed by a natural disaster (i.e., fire or earthquake) would be exempted from the requirement to rebuild their home to achieve 100 percent electrification.

With regard to electrification of “New Commercial,” the draft CAAP currently reads, “*Consider mandates or incentives for developers that provide 100% electrification for new commercial development.*”

Staff is seeking direction on whether the Council wants to revise the current language in the CAAP to implement 100% electrification of new commercial developments via a mandate or incentive.

In order to make the most informed decision new commercial development, it is worth noting similar efforts by other local agencies in California that have adopted regulations to achieve electrification. Please refer to Attachment A for a list of agencies and a brief summary of actions taken by each respective agency. It is also worth noting the City of Berkeley was first to adopt an electrification ordinance and is currently involved in pending litigation. The rest of the agencies listed also adopted electrification ordinances with slightly different approaches than the City of Berkeley. Based on the information contained in Attachment A, the following are the options (in no particular order) staff recommends the Council should consider, along with the anticipated next steps relative to each specific option:

- 1) Maintain the general provision in the City’s draft CAAP that permits the City to “consider” electrification options (mandates versus incentives), as opposed to revising the language now to either mandate or incentivize.

Next Steps: Direct staff to maintain the current language in the draft CAAP to “consider” electrification options.

- 2) Postpone adoption of any electrification mandates until the next cycle of statewide energy regulations are adopted by the California Energy Commission. Cycles are triennial, with the next code update expected in 2023. This option would defer to the latest State Energy Code, which according to the proposed update for 2023, would encourage, rather than mandate, 100% electrification.

Next Steps: The City would adopt the 2023 code updates at the end of this triennial cycle through the normal Building Standards Code adoption process.

- 3) Adopt an ordinance encouraging and/or incentivizing, but not mandating, electrification within the City.

Next Steps: Direct staff to prepare an ordinance as part of CAAP-implementation that encourages and/or incentivizes electrification in the City.

- 4) Adopt a Building Code Amendment ordinance that mandates phased electrification implementation within the City and includes common exceptions.

Next Steps: Direct staff to prepare a Building Code Amendment that mandates a phased implementation schedule for electrification within the City, and includes common exceptions.

- 5) Adopt a Building Code Amendment ordinance that mandates immediate electrification within the City with common exceptions.

Next Steps: Direct staff to prepare a Building Code Amendment that mandates immediate electrification within the City with common exceptions, as opposed to a phased approach noted in Option #4.

With regard to the budgetary impacts of the CAAP, there was discussion during Phase 1 regarding specific “City Actions” identified that potentially could have significant cost implications such as determining whether it was more appropriate for existing staff or contract staff to manage the energy efficiency programs.

In order to balance the need to be cost-effective with the need to not compromise the City’s ability to efficiently implement the CAAP, staff felt utilizing the contract services of Civic Spark to administer the implementation of the plan was ideal to start. If it is later determined that more time and effort is required, adjustments can be made during future budget discussions to account for additional fiscal and human resources that may be needed to implement the plan. This approach has been reflected in the \$25,000 budgeted for each of the next two fiscal years, FY 2021-22 and FY 2022-23.

On May 13, 2021, the Environmental Responsibility Subcommittee (Councilmember Anstead and Councilmember Buckley Weber) met and offered the following feedback:

- For new residential development, the Subcommittee supported mandating electrification through an ordinance that would include exemption language to account for natural disasters (i.e., fire, earthquake, etc).
- Although the current draft CAAP includes language to “consider mandating or incentivizing” electrification for new commercial development, the Subcommittee supported a mandate for electrification through an ordinance, and wanted to include exemptions for establishments, such as restaurants. Additionally, the Subcommittee wanted flexibility built in to allow review on a case-by-case basis to acknowledge there could be adjustments needed for commercial-types that were initially not included as an exemption, but would need to be added.

NOTE: At the time of the meeting, the Subcommittee did not have the benefit of having the information included in Attachment A.

- For any incentives (i.e., fee reductions, etc), those should have a definitive expiration date (1-2 years), to require eventual electrification.

- Subcommittee was supportive of idea to create an awards program to publicly acknowledge specific community efforts towards electrification (i.e., Corporate Sustainability Award, Green-Conscious Award, etc).

Staff continues to work on the completion of the environmental document as the primary objective of Phase 2. Much of the discussion included in this report regarding electrification will continue during Phase 3 as well, which covers implementation. It should be noted that deciding on whether to mandate or incentivize electrification does not create delay in terms of completing the environmental scope of work for Phase 2. Rather, the decision to mandate or incentivize electrification has specific impact on the implementation details relative to Phase 3. The Greenhouse Gas (GHG) reduction benefits identified in the draft CAAP remain unchanged, which is most important to completing the CEQA analysis.

RECOMMENDATION

Staff respectfully recommends the City Council:

1. Receive update on Phase 2, specifically on progress of the preparation of the environmental document for the draft Climate Action and Adaptation Plan (CAAP) in compliance with the California Environmental Quality Act, and
2. Discuss Mandates versus Incentives for New Residential and Commercial developments, and
3. Receive update on Budget Impacts

Attachment: Regulations Adopted by Other Local Agencies

Attachment A

Regulations Adopted by Other Local Agencies

Type of Regulation	Cities Adopted and Years of Adoption	Notes
Health and safety regulation prohibiting installation of gas infrastructure	Berkeley (2019)	Narrow exceptions for cases when electric installation is infeasible or when an applicant establishes that the use of natural gas “serves the public interest.” This ordinance is currently the subject of litigation.
Local amendments to State Building Standards Code (“SBSC”) that imposes a tiered electrification scheme for all new buildings, depending on building height; Prewiring for electric mandated	Richmond (2020)	<p>Buildings under 3 stories in height must have all-electric, and must install a minimum amount of on-site solar based on square footage.</p> <p>Buildings over 3 stories in height need only be “pre-wired” for electric readiness. The installation of gas connections is not precluded for these taller buildings.</p> <p>Richmond provides “conditional exceptions” to its electrification mandate. The exceptions are for certain non-residential buildings containing a scientific laboratory, cooking appliances and fireplaces in residential buildings, public agency owned and operated emergency centers in certain cases, and restaurants that can demonstrate a business-related reason to cook with a flame that cannot</p>

		be reasonably achieved from an electric fuel source. If an exception applies, natural gas appliance locations must also be electrically pre-wired for future electric appliance installation.
Local amendments to SBSC that impose an all-electric mandate for new residential buildings with exceptions	South San Francisco (2021); Petaluma (2021); Daly City (2021); Santa Cruz (2020); Hayward (2020)	With some variation, each city excluded certain categories from the electrification mandate. Common exceptions include exemptions for consumer products such as gas-fired ovens and dishwashers, affordable housing, ADUs, and catchall exemptions for projects deemed to be in the public interest.
Local amendments to SBSC that impose a phased-in all-electric mandate for both new residential & non-residential buildings with exceptions	Sacramento (2021)	Mandate applies to smaller buildings by January 2023, then expands to larger buildings by January 2026. Limited exceptions for food establishments, certain manufacturing, and affordable housing apply only for building permits filed on or before December 31, 2025.
Local amendments to SBSC that impose an all-electric mandate for both new residential and non-residential buildings with exceptions	San Carlos (2021); Oakland (2020); Ojai (2020); Sunnyvale (2020); Redwood City (2020); San Mateo County (2020); San Francisco (2019)	With some variation, each city excluded certain categories from the mandate. Common exceptions include commercial kitchens, affordable housing, ADUs, already entitled projects, swimming pool/spa heaters.

<p>Local amendments of SBSC that “encourage” or “promote” electrification</p>	<p>Albany (2020); Piedmont (2020); San Anselmo (2020)</p>	<p>Continue to permit installation of gas connections for at least some types of buildings in their respective jurisdiction, but incentivize electric by requiring higher energy efficiency requirements if gas connections will be installed. For example, in San Anselmo, an all-electric single family new construction need only satisfy the minimum standards set in the State Building Energy Standards. Mixed-fuel installations must be prewired, and must have a higher Efficiency EDR Compliance Margin, as demonstrated on Title 24 energy reports.</p>
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