



AGENDA REPORT

City Council

DATE:	July 2, 2024
TO:	Mayor Martinez and Members of the City Council
FROM:	Councilmember Cesar Zepeda & Councilmember Gayle McLaughlin
Subject:	Exploring Incentives to Encourage All-Electric Buildings in New Construction
FINANCIAL IMPACT:	None.
PREVIOUS COUNCIL ACTION:	None.
STATEMENT OF THE ISSUE:	Several cities, including Richmond, adopted natural gas bans in newly constructed buildings that were modeled after the City of Berkeley's Natural Gas Ban. In November 2019, the California Restaurant Association ("CRA") sued Berkeley claiming the Energy Policy and Conservation Act ("EPCA") and state law pre-empted the Berkeley Ordinance. Upon an appeal, the Ninth Circuit held that the EPCA preempts building codes like the Berkeley Ordinance which ban natural gas piping within new buildings. Given the recent ruling, many cities, including Richmond, are no longer enforcing their natural gas bans. Therefore, to encourage all electric buildings in new construction, many cities are exploring alternative strategies.

RECOMMENDED ACTION:	DIRECT staff to explore incentives to provide to developers that refrain from using natural gas in new construction buildings and return to City Council in the fall with recommendations – Councilmembers Cesar Zepeda (510-620-6593) and Gayle McLaughlin (510-620-6636).
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DISCUSSION:

Several cities, including Richmond, adopted natural gas bans in newly constructed buildings that were modeled after the City of Berkeley’s Natural Gas Ban. The City Council adopted [RMC 9.64.040](#) on November 16, 2021. In November 2019, the California Restaurant Association (“CRA”) sued Berkeley claiming the Energy Policy and Conservation Act (“EPCA”) and state law pre-empted the Berkeley Ordinance. Upon an appeal, the Ninth Circuit held that the EPCA preempts building codes like the Berkeley Ordinance which ban natural gas piping within new buildings. Given the recent ruling, many cities, including Richmond, are no longer enforcing their natural gas bans. Therefore, to encourage all electric buildings in new construction, many cities are exploring other options.

This agenda item requests that the Community Development Department, in consultation with the City Attorney’s Office, work to assess the types of incentives the City can provide to developers to opt out of gas infrastructure(s) in new construction and provide proposed recommendations. Types of incentives that may be assessed may include expedited processing of applications or fee reductions. Staff recommendations can be brought back for City Council consideration upon return from the council meeting recess.

DOCUMENTS ATTACHED:

None