



September 24, 2024

Board of Supervisors
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

SUBJECT: Second public hearing regarding an Ordinance amending the 2022 Ventura County Building Code at Article 10, Chapters 4 and 5 to repeal mandatory all-electric requirements for certain building permits and to instead institute voluntary use of all-electric appliances and equipment for new construction and large additions/alterations; consideration of a Resolution instituting an incentive program for voluntary use of all-electric appliances and equipment for certain building permits; and find that the Ordinance and Resolution are exempt from the California Environmental Quality Act; all Supervisorial Districts

RECOMMENDATIONS:

1. Adopt the proposed Ordinance amending the Ventura County Building Code (VCBC) regarding all-electric requirements, included as Exhibit 1, to become effective on October 24, 2024; and ratify Board Resolution No. 22-168's express findings regarding the amendments to the California Green Building Standards Code with respect to the amended all-electric requirements as set forth in Exhibit 1, and direct that the findings be filed with the California Building Standards Commission as needed.
2. Adopt a Resolution, included as Exhibit 3, establishing an incentive program to encourage voluntary use of all-electric appliances and equipment for certain Building Permits.
3. Determine that adoption of the proposed Ordinance amending the VCBC Amendments and Resolution establishing an incentive program to encourage voluntary use of all-electric appliances and equipment are exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15060(c)(1).
4. Direct the Clerk of the Board to publish an Ordinance summary as required by law.

FISCAL/MANDATES IMPACT:

Mandatory:	No
Source of Funding:	N/A
Funding Match Required:	No
Impact on Other Departments:	No impact on the General Fund or other Departments or Agencies

This item was prepared by County staff as part of our normal course of business. There are no significant costs or fiscal impact resulting from the current item.

STRATEGIC PLAN:

Staff's recommendations align with County Strategic Plan Priority *Reliable Infrastructure and Sustainability* Goal 3: "Invest in sustainable infrastructure, renewable energy, and preservation of our natural resources." The recommended retention of all-electric design for construction projects as a voluntary measure with an associated incentive would help the County meet its sustainability and greenhouse gas reduction objectives.

BACKGROUND:

The Board of Supervisors approved the current edition of the Ventura County Building Code (VCBC), Ordinance No. 4608 on November 1, 2022. This code included the requirement for all-electric appliances and equipment in new construction, sometimes referred to as the "Reach Code," with some exceptions. The new provisions became effective for Building Permit applications submitted on or after January 1, 2023.

In light of the Ninth Circuit Court of Appeals decision in *California Restaurants Association v. City of Berkeley* (9th Cir. 2024) 89 F.4th 1094 (*CRA v. Berkeley*), which held that the federal Energy Policy and Conservation Act expressly preempts the City of Berkeley's 2019 ordinance prohibiting installation of natural gas piping in newly constructed buildings, VCBC's mandatory requirements for all-electric appliances and equipment in new construction are no longer legally enforceable. Accordingly, the unenforceable provisions of VCBC Reach Code must also be repealed pursuant to the proposed ordinance.

B&S staff presented the concept for bringing the VCBC into compliance with *CRA v. Berkeley* decision to your Board on July 23, 2024, as well as the concept for including an incentive for voluntary use of all-electric equipment and appliances in new construction, with a recommended sunset date of December 31, 2025 on the incentive program. Your Board conducted introduction and first reading of the Ordinance on September 10, 2024. Second reading and adoption of the Ordinance is before your Board for consideration today, along with a Resolution to establish the voluntary compliance incentive program.

DISCUSSION:

Proposed Ordinance Amending the VCBC

The proposed amendments include changes to Article 10 of the current edition of the VCBC, which was adopted in November 2022. Article 10 amended Chapters 4 and 5 of the California Green Building Standards Code (CGBSC) by requiring that new buildings as well as additions and alterations above a certain threshold in size, be constructed with all-electric appliances and equipment, with some exceptions.

The proposed amendments to the VCBC in response to the *CRA v. Berkeley* decision include the deletion of all mandatory requirements for new construction projects and alterations and additions above a certain threshold in size to include the incorporation of all-electric appliances and equipment and instead, allows for voluntary incorporation of all-electric appliances and equipment. The specific changes are to sections 4.509 and 5.509 of the VCBC for residential and non-residential construction, respectively, as noted in Exhibit 1. The change removes all mandatory language for all-electric appliances and equipment and adds language to make these installations voluntary. The proposed changes to the VCBC are indicated in legislative format with strike-through and underline revisions in Exhibit 2.

Incentive Program and Proposed Resolution Establishing this Incentive Program

The proposed incentive program would be implemented through the adoption of a Resolution stipulating the specifics of the incentive (the reduction in the Expedited Plan Review surcharge) and the terms for qualifying for the incentive (refer to Exhibit 3). The specific change would reduce by 50% the cost for Expedited Plan Review service for Building Permit applicants for new construction projects electing to voluntarily incorporate all-electric appliances and equipment, as originally mandated in the 2022 VCBC. New construction projects are defined in the Resolution as new residential and non-residential buildings, additions exceeding 50% of the area of an existing building, and alterations exceeding 50% of the estimated value of the existing building.

Expedited Plan Review is an optional service for Building Permit applicants desiring a shortened turnaround-time for the Building Permit plan review process. There is an additional fee or surcharge for those applicants wanting to avail themselves of this service, and this surcharge is established at 35% of the cost of the normal calculated plan review fee. For those applicants that pay the Expedited Plan Review service surcharge, the turnaround-time for each round of Building Permit plan review is typically cut by about half. The incentive program would reduce by 50% the cost of the Expedited Plan Review service for those Building Permit applicants voluntarily including all-electric appliances and equipment as part of their construction projects. The surcharge for those applicants who choose to voluntarily incorporate all-electric construction design would be reduced from 35% to 17.5%.

As an example, a typical 2,000 sq ft single-family residence has a plan check fee of \$2,721, and hence the current 35% surcharge for Expedited Plan Review would be $\$2,721 \times 0.35$ or \$952. Under the proposed incentive program, for an applicant voluntarily incorporating all-electric construction design, the mandatory plan check fee would remain \$2,721, but the surcharge for voluntary Expedited Plan Review would be reduced to $\$952 \times 0.50$ or \$476. Importantly, this incentive program is not a subsidy to the basic Building Permit fees. Rather it is a reduction to a surcharge that if paid, speeds up the turnaround-time for review of the construction plans and documents. The work required for the plan review process is the same, and hence, there is no impact to the County General Fund in offering this incentive.

B&S staff at the July 23, 2024 Board meeting on this item, recommended a 50% reduction of the Expedited Plan Review surcharge as the incentive program for applicants electing to incorporate all-electric construction. The staff recommendation remains a 50% reduction in this surcharge as the appropriate percentage to induce participation. A lower amount such as a 25% reduction would not be anticipated to be an adequate incentive for voluntary compliance, and a higher reduction, such as 75%, would likely lead to a large number of applications seeking Expedited Plan Review and as such, would be anticipated to result in staffing and workload challenges that could undermine the effect of the expedited review.

Summary of All-Electric Permits Issued since 2023

Between January 1, 2023 and March 28, 2024, a total of 116 Building Permits in unincorporated Ventura County were required to incorporate all-electric appliances and equipment since the new Reach Code requirements took effect. As noted above, only projects of a certain size and type trigger all-electric Reach Code requirements, and these are termed “qualifying projects.” Qualifying projects include new construction projects and alterations and additions above a certain threshold in size. Of these 116 qualifying project permits, 102 were for residential projects and 14 were for non-residential projects.

Between March 29, 2024, when the County stopped mandating all-electric components in certain qualifying building permits, and July 23, 2024, a total of 51 qualifying project Building Permits were issued for projects that would have been required to be all-electric, but were not mandated to do so in response to the County’s non-enforcement of the Reach Code requirements in the wake of the *CRA v. Berkeley* decision. Of these 51 permits, 44 were for residential projects, and 7 were for non-residential projects. Over the entire January 1, 2023 to July 23, 2024 period, an average of 3 permits per month, or approximately 4% of all permit applications with plans, requested and paid for Expedited Plan Review. This corresponds to approximately 7 permits of the 167 total qualifying project Building Permits.

With the recommended adoption of the incentive program for voluntary compliance with the all-electric requirements, the number of requests for Expedited Plan Review for

qualifying projects is anticipated to increase approximately eight-fold. The estimated average cost to the County (in the form of lost revenue) with a 50% reduction of these fees is projected to equate to approximately \$16,835 per year, assuming a similar rate of service requests for expedited reviews. The \$16,835 in potential lost revenue equates to approximately 0.4% of the Building Division's ~\$4,000,000 annual budget. Additionally, as stated previously, there is no impact to the General Fund. While the cost of offering this incentive is relatively minor, with the inclusion of the incentive program, staff anticipates an appreciable increase in the number of Building Permit applications that voluntary include provisions for all-electric design.

CALIFORNIA ENVIRONMENTAL QUALITY ACT:

The proposed Ordinance and associated Resolution are not subject to CEQA environmental impact review pursuant to CEQA Guidelines Section 15060(c)(1) because the County's repeal of the VCBC's mandatory all-electric requirements and adoption of an incentive program for voluntary compliance do not involve the exercise of a County discretionary power but rather is a mandatory action required to comply with federal law. As explained above, the County is required by law to comply with the recent *CRA v. Berkeley* decision by repealing the VCBC's all-electric requirement pursuant to the proposed ordinance. Although CEQA environmental review is not required for these actions, the repeal of the all-electric requirement is not anticipated to have a significant environmental impact. While the proposed amendments would decrease the number of construction projects mandated to incorporate all-electric appliances and equipment, the establishment of an incentive program to encourage incorporation of such appliances and equipment together with the cost savings of utilizing electric rather than gas-fired appliances and equipment would minimize the impact of the proposed amendment. Given the relatively low number of construction projects that were subject to the prior mandatory all-electric requirements in unincorporated Ventura County, and the establishment of the incentive program and existence of other economic incentives to include electric appliances and equipment, a significant increase in greenhouse gas emissions resulting from the combined effect of the revised ordinance and establishment of the incentive program is not anticipated.

PUBLIC REVIEW PROCESS:

A draft copy of the ordinance to repeal the previously mandated requirements for all-electric equipment in the 2022 VCBC was posted on the Building and Safety website in August 2024 for public review and comment.

This item has been reviewed by the County Executive Office, the Auditor Controller's Office, and County Counsel. If you have any questions concerning this matter, please call me at (805) 654-2787.

A handwritten signature in black ink, appearing to read 'Ruben M. Barrera', written over a horizontal line.

Ruben M. Barrera, Building Official
Resource Management Agency
Building and Safety Division

Exhibits

- Exhibit 1: Proposed Revised 2022 VCBC (Ordinance) – Clean Copy
- Exhibit 2: Proposed Revised 2022 VCBC (Ordinance) – Legislative Version
- Exhibit 3: Proposed Resolution for Incentive Program