

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS
SUSPENDING ENFORCEMENT OF THE CITY OF LOS ALTOS MUNICIPAL CODE,
LOCAL LAWS AND REGULATIONS IMPOSING ALL-ELECTRIC REQUIREMENTS
FOR NEW CONSTRUCTION OR OTHERWISE PROHIBITING USE OR
INSTALLATION OF GAS APPLIANCES CONTAINED WITHIN CITY OF LOS
ALTOS MUNICIPAL CODE TITLE 12**

WHEREAS, on November 29, 2022, the City Council adopted Ordinance No. 2022-487 which, among other things, established the City’s first all-electric requirements for new construction; and

WHEREAS, subject to few exceptions, Los Altos Municipal Code (LAMC) Sections 12.22.010 and 12.22.020, enacted by and through Ordinance No. 2022-487, impose all-electric requirements on new construction of single-family residences, multi-family residences, with exceptions for cooking and fireplaces, and for non-profit restaurants. Opportunities to apply for exceptions were also available for non-residential buildings, laboratories and public buildings; and

WHEREAS, since the enactment of LAMC Sections 12.22.010 and 12.22.020, the United States Court of Appeals for the Ninth Circuit concluded in *California Restaurant Association v. City of Berkley*, 89 F.4th 1094 (9th Cir. 2024) that the Energy Policy and Conservation Act (42 U.S.C. §6297(c)), expressly preempts State and local regulations, including building codes, concerning the energy use of covered natural gas appliances and stated that the Energy Policy and Conservation Act preemption applies to regulations addressing the appliances themselves and building codes that concern the use of natural gas; and

WHEREAS, because LAMC Sections 12.22.010 and 12.22.020 expressly regulate the use of gas appliances covered by the Energy Policy and Conservation Act, the City Council finds that suspending enforcement of these LAMC Sections and any local regulations implementing these LAMC Sections or otherwise prohibiting use or installation of gas appliances contained within Title 12 is necessary in light of the Ninth Circuit Court of Appeals decision in the *California Restaurant Association* case.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Los Altos does hereby ordain as follows:

SECTION 1. SUSPENSION OF CERTAIN LAMC SECTIONS. The City Council suspends enforcement of the LAMC Title 12 and any local laws and regulations imposing all-electric requirements or otherwise prohibiting use or installation of gas appliances, including, but not limited to, LAMC Sections 12.22.010 and 12.22.020.

This suspension shall apply to all applications for building permits or other development project entitlements including, without limitation, pending applications, new applications, requests for modification of pending applications, and requests for modification of previously issued permits or entitlements.

SECTION 2. CONSTITUTIONALITY; AMBIGUITIES. If any section, subsection, sentence, clause, or phrase of this Resolution is for any reason held to be invalid or unconstitutional,

such decision shall not affect the validity of the remaining portions hereof. Any ambiguities in the Los Altos Municipal Code created by this Resolution shall be resolved by the Director of Development Services, in their reasonable discretion, after consulting the City Attorney.

SECTION 3. EFFECTIVE DATE. This Resolution shall become effective immediately upon adoption.

I HEREBY CERTIFY that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the 10th day of September 2024 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Jonathan D. Weinberg, MAYOR

Attest:

Melissa Thurman, CITY CLERK