



Environment and Climate Commission

INFORMATION CALENDAR

To: Honorable Mayor and Members of the City Council

From: Environment and Climate Commission (ECC)

Submitted by: Ben Gould, Chairperson, ECC

Subject: Proposed Updates to Building Emissions Saving Ordinance

INTRODUCTION

At the June 21, 2023 meeting of the Environment and Climate Commission, Office of Energy & Sustainable Development (OESD) staff presented their thinking on updates to the Building Energy Saving Ordinance targeted for later this year. This report elaborates on a major point of discussion and the Commission's recommendation for next steps.

CURRENT SITUATION AND ITS EFFECTS

It is a strategic plan goal for the City of Berkeley to be a global leader in addressing climate change, advancing environmental justice, and protecting the environment.

We are excited that the City is continuing its leadership on building decarbonization in spite of the recent setbacks from the Ninth Circuit's ruling on the All-Electric Ordinance. By expanding the Building Emissions Saving Ordinance (BESO) to promote electrification in existing residences at time of sale, Berkeley once again has the opportunity to model what local jurisdictions can do to advance building decarbonization.

BACKGROUND

Continued action on building decarbonization is urgently needed if the City is going to meet its own stated climate goals. In 2020, Berkeley City Council committed to reduce emissions 60.5% from 2018 levels by 2030. Based on 2020 data, which City staff acknowledges will experience a rebound as personal travel recovers from pandemic lows, the City has nearly 50% to go to meet its target. Recent initiatives, such as those to default all customers to 100% renewable energy, will make a dent, but much more substantial action is needed.

The drafted update requirements presented by OESD to the Environment and Climate Commission on June 21, 2023 have the potential to be that substantial action, but as written, the Commission believes there is both a missed opportunity to impact the City's

climate goals and social equity. The current draft proposes a 2025 single-appliance electrification requirement for 1-2 unit buildings at time of sale (i.e. single family homes with ADUs, duplexes) with a goal of implementing a similar requirement for 3-4 unit buildings in 2027-2028. As a typology, 2-4 unit homes represent the second largest category of buildings in the City by square footage; thus, they hold high importance in the overall picture of building electrification.

The shortcoming of this timeline from a climate perspective is obvious. If Berkeley is to reduce emissions by 60.5% of 2018 levels by 2030, implementing a requirement that only affects buildings at time of sale just two years before the goal date will have little consequential impact, especially considering that the Bay Area Air Quality Management District will be phasing in a ban on the sale of natural gas water heaters and furnaces in 2027 and 2029, respectively.

When the Commission raised the idea of aligning the 3-4 unit time-of-sale requirement with the 1-2 unit time of sale requirement, we received pushback from staff. While we understand that there are some unique technical challenges for 3-4 unit buildings relative to 1-2 unit buildings, addressing this category of buildings is essential to building an electrification policy that meets the four equity guardrails laid out by the Berkeley Existing Buildings Electrification Strategy (BEBES) in 2021:

1. Maximize Access to Health, Safety & Mobility Benefits
2. Maximize Access to Economic Benefits
3. Maximize Ease of Participation
4. Promote Housing Affordability & Anti-Displacement

The proposed delay for 3-4 unit buildings fails the first three guardrails and can be made compatible with the fourth guardrail with some additional care. Renters are a majority population in the City, comprising about 60% of the total population. Thus, electrification for renters is an equity issue.

Despite the fact that renters comprise a majority of the City's population, they have virtually no ability to participate in electrification and thus cannot access health (e.g. reduced asthma risks in children), safety (e.g. removing concern about carbon monoxide), or economic benefits (e.g. savings from solar, efficiency of heat pumps versus gas furnaces). Renters have little or no ability to influence building retrofits or upgrades, and because typically renters pay for utilities, landlords have little incentive to pursue healthier or more efficient appliance alternatives proactively or on replacement.

The BESO updates provide a leverage point to change this dynamic by requiring certain upgrades at point of sale. While 1-2 unit buildings are more ubiquitous than 3+ unit buildings, they house fewer people, and the BESO policy as proposed will continue to exacerbate the wealth divide as the cost of maintaining the existing methane infrastructure will fall more and more heavily on those not covered by the ordinance, i.e., renters.

We do appreciate Staff's concern for the last equity guardrail — promoting housing affordability and anti-displacement — as it is also an important value for the Commission. We do believe, however, that a carefully crafted upgrade requirement is compatible with the guardrail.

One opportunity for upgrades that doesn't involve displacement or tenant disruption is with vacant units at time of sale. Many multi-family homes sell with one unit vacant, and that unit is often renovated before the sale in order to increase its value. It seems reasonable that BESO should apply to at least any vacant units at time of sale, with the requirement that each unit *be served by* a heat pump (i.e., it can be shared with other units if deemed appropriate).

BESO could also provide alternative pathways for compliance that require minimal tenant disruption. For example, the installation of solar, battery storage, or electric vehicle charging can largely be done without tenant disruption and bring with them lower energy costs, higher energy security, and increased access to EVs.

Although any of the proposed upgrades might justify higher rents, many upgrades can be cost beneficial to renters when taking into account utility costs. Regardless, the costs do not occur in a vacuum but in the context of the substantial benefits represented by the three other equity guardrails. We firmly believe that Staff is capable of identifying creative solutions within these constraints before the proposed 2025 implementation date.

To our knowledge, no other local jurisdiction has set forth legal requirements to encourage all-electric upgrades in single family, small, and medium-sized residences. It is precisely for this reason that Berkeley has a responsibility to leave no group behind and demonstrate that it is possible to meet aggressive equity and climate goals.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

Reduced emissions from the combustion of methane in residential buildings.

POSSIBLE FUTURE ACTION

Proposed amendment to Building Emissions Saving Ordinance that applies a time-of-sale electrification requirement to all residential buildings 4 units or less.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Increased staff costs to administer the program from 2025-2027 versus the proposal of starting with 1-2 unit buildings in 2025 and phasing in 3-4 unit buildings in 2027-8.

CONTACT PERSON

Daniel Tahara