

TO CITY CLERK FOR PLACEMENT ON NEXT
REGULAR COUNCIL AGENDA TO BE POSTED

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On April 17, 2023, the Ninth Circuit Court of Appeals issued a ruling in the case entitled *California Restaurant Association v. City of Berkeley*, Case No. 21-16278 (9th Cir., Apr. 17, 2023) (the Decision). The Decision held that the City of Berkeley's 2019 ordinance which prohibited natural gas infrastructure (*i.e.*, gas piping) in newly-constructed buildings was preempted by the Energy Policy and Conservation Act (EPCA), 42 U.S.C. § 6297(c).

On December 7, 2022, City Council adopted Ordinance No. 187714 which is similar to the City of Berkeley's ordinance and requires new buildings to be all-electric buildings, with exceptions.

Because of the substantial similarity of the ordinances, and possible preemption by the EPCA, the City should repeal Ordinance No. 187714 until such time as federal law changes.

I THEREFORE MOVE that the City Council:

1. Instruct Los Angeles Department of Building and Safety (LADBS) to immediately stay enforcement of Ordinance No. 187714, including Los Angeles Municipal Code Sections Section 99.04.106.8, 99.04.106.8.1, 99.05.106.14, and 99.05.106.14.1 until such time as federal law changes to allow its enforcement without preemption;
2. Request the City Attorney to transmit an ordinance reviewed as to form and legality that would repeal the Ordinance in light of the 9th Circuit's decision; and
3. Instruct LADBS to report back, after consultation with the City Attorney's Office and any other applicable departments, on alternative building standards that reduce ongoing operational emissions in new building construction through means such as, but not limited to, promoting the use of electric appliances, and regulating emissions in a manner similar to New York City's Local Law No. 154 of 2021, which relates to the use of substances with certain emission profiles, in addition to any possible exemptions to the Pacific Palisades.

PRESENTED BY:



MARQUEECE HARRIS-DAWSON
Councilmember, 8th District

SECONDED BY:



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MAY 14 2025