

SUBJECT: Extension of Urgency Ordinance and Introduction and Waiver of First Reading of a Permanent Ordinance Implementing a Modification to the Brentwood Municipal Code to allow Pad-Mounted Transformers within Development Projects.

DEPARTMENT: Engineering

STAFF: Allen Baquilar, Director of Engineering/City Engineer
Vatsal Patel, Engineering Manager

TITLE/RECOMMENDATION

(1) Approve an extension of the Interim Urgency Ordinance No. 1072 adopted on March 26, 2024, allowing Permittees to install pad-mounted transformers within development projects while the City monitors the nationwide supply chain issues related to underground transformers, and (2) introduce and waive the first reading of a permanent ordinance to amend Brentwood Municipal Code Section 16.120.120.

Neither the proposed Interim Urgency Ordinance, nor the permanent ordinance, is an action subject to the California Environmental Quality Act (CEQA), as the actions have no potential for resulting in physical change to the environment. (14 Cal. Code Regs. § 15358.) Further, adoption of the Urgency Ordinance extension and permanent ordinance are exempt under CEQA because they will not cause a change in any of the physical conditions within the area affected by the ordinances. (14 Cal. Code Regs. § 15061(b)(3).)

FISCAL IMPACT

There is no anticipated direct fiscal impact as a result of either the proposed extension of the Interim Urgency Ordinance No. 1072, or of the adoption of a permanent ordinance amending BMC Section 16.120.120, to allow residential and commercial development projects that include land subdivision to receive building permits.

There would be a direct fiscal impact to the extent City Council did not extend the Interim Urgency Ordinance or adopt the permanent ordinance, as development projects subject to this requirement will not be able to provide electrical service to future buildings and, therefore, will not be able to receive building permits for the foreseeable future.



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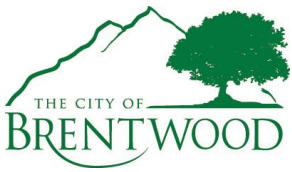
Should the City Council not extend the Interim Urgency Ordinance or adopt the permanent ordinance, the anticipated collection of \$1.7M in near-term fees associated with Engineering and Inspection staff required to administer, review, approve and inspect development projects with subdivisions city-wide would be delayed. As a result, delays in the construction of public and private improvements to support development projects that include land subdivisions would cause a subsequent delay to building permit issuance, impacting FY 2025/26 and beyond. If the extension is not approved, or the permanent ordinance not enacted, future revenue projections for the affected commercial projects are estimated to include a loss of up to \$1.5M a year in sales tax, and more for the deferral of anticipated property taxes.

BACKGROUND

The Subdivision Map Act (Government Code Section 66410, et seq.) is a California state law that authorizes local governments, such as city councils, to regulate and control the design and improvement of subdivisions of land. To carry out this power, each local government, including the City of Brentwood, passes its own subdivision ordinance, which sets out the requirements imposed on developers in exchange for the privilege of subdividing their land.

One of these requirements is found in Brentwood Municipal Code ("BMC") Section 16.120.120(A)(1), which states:

Utility distribution facilities, including, but not limited to, electric, communication, street lighting and advanced technology systems installed in and for the purpose of supplying service to any development, shall be required to be placed underground. "Advanced technology systems" shall be defined as all necessary appurtenances, equipment and facilities required for the provision of Internet, computer, fiber optic, cable television, telephone, and other communication services within the public right-of-way and upon private property. The design, installation, inspection and testing requirements for city acceptance of such system shall meet the minimum requirements as outlined in the city of Brentwood standard plans and specifications as approved by the city engineer. The developer shall also dedicate to the city that portion of the system within the public right-of-way and shall dedicate to the property owner the portion of the system within the private property.



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As currently written, this includes all Pacific Gas & Electric Company ("PG&E") electric transformers, which must be placed underground.

Electric distribution transformers serve an important role in converting or stepping down currents from power lines to be rated at 300,000 to 750,000 volts to lower voltages for consumer use, typically just 110 to 250 volts, with higher voltages for commercial and industrial use. Without transformers, residents and businesses will not be able to receive electricity.

Beginning this year, staff has received numerous contacts about the lack of supply and long delays associated with procuring subsurface transformers, which are required by BMC Section 16.120.120, and has been requested to explore possible options to move land use projects forward. The requests have grown such that it is now a consistent message from all developers, and repeated in local/national news that they are unable to obtain subsurface transformers within a reasonable timeframe.

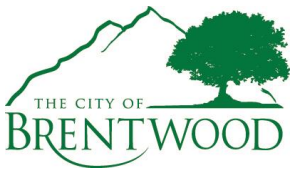
PG&E estimates January 2028 as the earliest availability of subsurface transformers, whereas surface (pad-mounted) transformers are available within 6-9 months after PG&E approval of plans.

On March 26, 2024, the City Council adopted an interim urgency ordinance authorizing the City Engineer to allow pad-mounted transformers for projects applicable to BMC Chapter 16.120.120 with additional screening requirements for residential applications. The Council also discussed the adoption of a permanent ordinance to allow for this process.

NEXT STEPS

This action would (1) extend the interim urgency ordinance adopted by the City Council on March 26, 2024, which expires 45 days after adoption (May 10, 2024), by ten months and fifteen days (February 10, 2025), and (2) introduce and waive the first reading of a permanent ordinance to modify BMC 16.120.120 as set forth in the ordinance. The permanent ordinance differs from the urgency ordinance in that it sets forth more explicit instructions for compliance with screening requirements in residential settings.

Staff will continue to monitor the availability of subsurface transformers and its supply chain issues and return to City Council with an update should supply chain issues resolve prior to February 10, 2025.



CITY COUNCIL STRATEGIC INITIATIVE

Not Applicable.

PREVIOUS ACTION

Previous Action by the City Council is included on Attachment 1.

DATE OF NOTICE

Not Applicable.

ENVIRONMENTAL DETERMINATION

Neither the Interim Urgency Ordinance extension, nor the permanent ordinance, is an action subject to the California Environmental Quality Act (CEQA), as the actions have no potential for resulting in physical change to the environment. (14 Cal. Code Regs. § 15358.) Further, adoption of the Urgency Ordinance extension and permanent ordinance are exempt under CEQA because they will not cause a change in any of the physical conditions within the area affected by the ordinances. (14 Cal. Code Regs. § 15061(b)(3).)

ALTERNATIVE OPTION(S)

Alternative Options to the Staff Recommendation:

1. Do not approve staff's recommendation. Developers will not be able to receive full timely approval of their joint trench plans until underground transformers are available, halting all development until supply issues are resolved, or until separate Planning Commission and City Council consideration is completed (which may not be feasible in all cases).

ATTACHMENT(S)

1. Previous Action
2. Extension of Urgency Ordinance
3. Permanent Ordinance Amending BMC Section 16.120.120