

BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689
Tel. No. (415) 554-5184
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MEMORANDUM

LAND USE AND TRANSPORTATION COMMITTEE

SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor Myrna Melgar, Chair
Land Use and Transportation Committee

FROM: John Carroll, Assistant Clerk

DATE: October 7, 2024

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**
Tuesday, October 8, 2024

The following file should be presented as COMMITTEE REPORT during Board meeting on Tuesday, October 8, 2024. This ordinance was acted upon during the Land Use and Transportation Committee meeting on Monday, October 7, 2024, at 1:30 p.m., by the votes indicated.

BOS Item No. 21

File No. 240845

[Building Code - Gas Infrastructure for EPCA Appliances in New Construction]

Ordinance amending the Building Code to allow new construction that complies with the Design Guidelines for Electric-Ready Buildings to install gas infrastructure to serve appliances covered by the Energy Policy and Conservation Act (EPCA); adopting findings of local conditions under the California Health and Safety Code; affirming the Planning Department's determination under the California Environmental Quality Act; and directing the Clerk of the Board of Supervisors to forward this Ordinance to the California Building Standards Commission upon final passage.

RECOMMENDED AS COMMITTEE REPORT

Vote: Supervisor Myrna Melgar – Aye
Supervisor Dean Preston – Aye
Supervisor Aaron Peskin – Aye

Cc: Board of Supervisors
Angela Calvillo, Clerk of the Board
Alisa Somera, Legislative Deputy
Brad Russi, Deputy City Attorney

File No. 240845

Committee Item No. 2

Board Item No. 21

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation

Date: October 7, 2024

Board of Supervisors Meeting:

Date: October 8, 2024

Cmte Board

<input type="checkbox"/>	<input type="checkbox"/>	Motion
<input type="checkbox"/>	<input type="checkbox"/>	Resolution
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Ordinance
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Legislative Digest
<input type="checkbox"/>	<input type="checkbox"/>	Budget and Legislative Analyst Report
<input type="checkbox"/>	<input type="checkbox"/>	Youth Commission Report
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Introduction Form
<input type="checkbox"/>	<input type="checkbox"/>	Department/Agency Cover Letter and/or Report
<input type="checkbox"/>	<input type="checkbox"/>	MOU
<input type="checkbox"/>	<input type="checkbox"/>	Grant Information Form
<input type="checkbox"/>	<input type="checkbox"/>	Grant Budget
<input type="checkbox"/>	<input type="checkbox"/>	Subcontract Budget
<input type="checkbox"/>	<input type="checkbox"/>	Contract / DRAFT Mills Act Agreement
<input type="checkbox"/>	<input type="checkbox"/>	Form 126 – Ethics Commission
<input type="checkbox"/>	<input type="checkbox"/>	Award Letter
<input type="checkbox"/>	<input type="checkbox"/>	Application
<input type="checkbox"/>	<input type="checkbox"/>	Public Correspondence

OTHER

<input type="checkbox"/>	<input checked="" type="checkbox"/>	<u>ENV Presentation – October 7, 2024</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>BIC Transmittal – September 19, 2024</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>CEQA Determination – September 17, 2024</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Referrals CEQA and BIC – September 12, 2024</u>
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<u>Chair's Committee Report Request Memo – October 2, 2024</u>

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<input type="checkbox"/>	<input type="checkbox"/>	<u> </u>

Prepared by: John Carroll

Date: October 4, 2024

Prepared by: John Carroll

Date: October 7, 2024

Prepared by:

Date:

[Building Code - Gas Infrastructure for EPCA Appliances in New Construction]

Ordinance amending the Building Code to allow new construction that complies with the Design Guidelines for Electric-Ready Buildings to install gas infrastructure to serve appliances covered by the Energy Policy and Conservation Act (EPCA); adopting findings of local conditions under the California Health and Safety Code; affirming the Planning Department's determination under the California Environmental Quality Act; and directing the Clerk of the Board of Supervisors to forward this Ordinance to the California Building Standards Commission upon final passage.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~strikethrough Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. General Findings.

(a) The Planning Department has determined that the actions contemplated in this ordinance comply with the California Environmental Quality Act (California Public Resources Code Sections 21000 et seq.). Said determination is on file with the Clerk of the Board of Supervisors in File No. 240845 and is incorporated herein by reference. The Board affirms this determination.

(b) On September 18, 2024, the Building Inspection Commission considered this ordinance at a duly noticed public hearing pursuant to Charter Section 4.121 and Building Code Section 104A.2.11.1.1.

1 Section 2. Findings Regarding Local Conditions.

2 (a) California Health and Safety Code Sections 17958.7 and 18941.5 provide that local
3 jurisdictions may enact more restrictive building standards than those contained in the
4 California Building Code, provided that the local jurisdictions make express findings that each
5 change or modification is reasonably necessary because of local climate, geologic, or
6 topographical conditions and that the local jurisdictions file the local amendments and
7 required findings with the California Building Standards Commission before the local changes
8 or modifications can go into effect.

9 (b) The Board of Supervisors hereby finds and declares that the following
10 amendments to the San Francisco Building Code are reasonably necessary because of local
11 climatic, topological, and geological conditions as discussed below.

12 (1) The topography of San Francisco creates increased risk of fire due to
13 high density of buildings on very small lots and high population density. It is necessary and
14 appropriate to limit and impose safety measures on new natural gas infrastructure that
15 otherwise increases acute and cumulative fire risk across the City.

16 (2) San Francisco's geologic and topographic conditions produce increased
17 risk for earthquake-induced failure and consequent fire due to local hazardous seismic
18 microzones, slide areas, and local liquefaction hazards. Natural gas infrastructure may
19 rupture, fail, and/or explode due to earthquake-induced structural failure. After seismic
20 events, natural gas infrastructure will take significantly longer to resume service compared to
21 electrical infrastructure. It is necessary and appropriate to reduce fire risk and increase
22 resiliency by limiting the construction of new natural gas infrastructure, requiring essential
23 building systems be Electric Ready to run on electricity during natural gas service disruptions,
24 and imposing safety requirements for any natural gas infrastructure.

1 (3) San Francisco’s climate and topography create wind patterns and
2 periodic seasonal high temperatures that produce smog and ozone that exacerbate the
3 respiratory ailments of residents. Natural gas combustion is a major source of indoor air
4 pollution that further exacerbates the effects of regional pollution for the City’s residents and
5 can be particularly acute given the City’s dense population and smaller dwelling units.
6 Studies have shown children living in homes with natural gas stoves have a 42% increased
7 risk of experiencing asthma symptoms and those impacts may be exacerbated in a compact
8 city such as San Francisco where low-income households are more likely to have more
9 people living in smaller spaces with less ventilation. It is reasonable and appropriate to
10 decrease pollution exposure and resulting human health impacts by utilizing All-Electric
11 construction, and ensuring proper ventilation for any new natural gas infrastructure.

12 (4) The United States Court of Appeals for the Ninth Circuit determined in
13 *California Restaurant Ass’n v. City of Berkeley*, 89 F.4th 1094 (9th Cir. Jan. 2, 2024), that the
14 Federal Energy Policy and Conservation Act, 42 U.S.C. §§ 6201 et. seq. (“EPCA”), preempts
15 local laws that do not provide a pathway for installation of appliances covered by EPCA. The
16 Board of Supervisors hereby finds that buildings for which permit applicants seek to install gas
17 infrastructure solely to service EPCA-covered appliances in new construction shall be
18 considered All-Electric Buildings, and not Mixed-Fuel Buildings, provided the new construction
19 will be Electric Ready and will minimize building safety issues associated with natural gas
20 infrastructure.

21
22 Section 3. Chapter 1A of the San Francisco Building Code is hereby amended by
23 revising Section 106A (specifically Section 106A.1.17), to read as follows:

24 **SECTION 106A – PERMITS**

25 * * * *

1 **106A.1.17 Mixed-Fuel Buildings.** The Building Official shall not issue permits for
2 construction of any new Mixed-Fuel Building that submitted an initial application on or after
3 June 1, 2021. Permits for new construction, the ~~that submit~~ initial applications ~~for which were~~
4 submitted on or after that date, may only be obtained for All-Electric Buildings or Projects. New
5 construction that includes natural gas infrastructure solely to serve appliances covered by the Federal
6 Energy Policy and Conservation Act (42 U.S.C. §§ 6201 et seq.) and that complies with the Design
7 Guidelines for Electric-Ready Buildings published by the Department of Building Inspection shall be
8 considered an All-Electric Building or Project for purposes of this subsection 106A.1.17. For
9 purposes of this subsection, the initial application shall be the first site or building permit
10 application associated with the project.

11 * * * *

12
13 Section 4. Effective Date. This ordinance shall become effective 30 days after
14 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
15 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
16 of Supervisors overrides the Mayor's veto of the ordinance.

17
18 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
19 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
20 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
21 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
22 additions, and Board amendment deletions in accordance with the "Note" that appears under
23 the official title of the ordinance.

1 Section 6. Severability. If any section, subsection, sentence, clause, or phrase of this
2 ordinance, or any application thereof, is held to be invalid by a court of competent jurisdiction,
3 such decision shall not affect the validity of the remaining portions or applications of the
4 ordinance. The Board of Supervisors hereby declares that it would have passed this
5 ordinance, and each section, subsection, sentence, clause, or phrase of this ordinance,
6 irrespective of whether any one or more sections, subsections, sentences, clauses, or
7 phrases of the ordinance, or applications thereof, be declared invalid.

8
9 Section 7. Directions to Clerk. Upon final passage of this ordinance, the Clerk of the
10 Board of Supervisors is hereby directed to transmit this ordinance to the California Building
11 Standards Commission pursuant to the applicable provisions of State law.

12
13 APPROVED AS TO FORM:
14 DAVID CHIU, City Attorney

15 By: /s/ Robb Kapla
16 ROBB KAPLA
17 Deputy City Attorney

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LEGISLATIVE DIGEST

[Building Code - Gas Infrastructure for EPCA Appliances in New Construction]

Ordinance amending the Building Code to allow new construction that complies with the Design Guidelines for Electric-Ready Buildings to install gas infrastructure to serve appliances covered by the Energy Policy and Conservation Act (EPCA); adopting findings of local conditions under the California Health and Safety Code; affirming the Planning Department's determination under the California Environmental Quality Act; and directing the Clerk of the Board of Supervisors to forward this Ordinance to the California Building Standards Commission upon final passage.

Existing Law

The Building Code prohibits the Department of Building Inspection (DBI) from issuing building permits for construction of new mixed-fuel buildings where the initial application for the permit was submitted on or after June 1, 2021. There are two exceptions allowing construction of new mixed-fuel buildings (buildings with natural gas infrastructure) for installation of cooking equipment in restaurants, or where all-electric design is physically or technically infeasible.

Amendments to Current Law

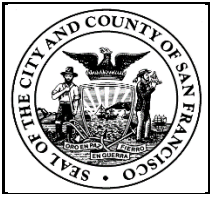
The proposed legislation would allow DBI to issue permits for new construction that includes natural gas infrastructure solely to serve appliances covered by the Federal Energy Policy and Conservation Act (42 U.S.C. §§ 6201 et seq., "EPCA") as long as the building complies with the DBI's Design Guidelines for Electric-Ready Buildings. The proposed legislation would deem such buildings as all-electric and not subject to the limitations on new construction of mixed-fuel buildings.

Background Information

Natural gas combustion, infrastructure, and transport create significant health, safety, and environmental risks for San Francisco. The City's unique topography, high population density, stock of older wooden structures, seismic activity, and wind patterns make the City vulnerable to fast spreading fires triggered or strengthened by gas leaks and explosions. Further, natural gas service takes significantly longer to resume after major disruptions than electrical service. Indoor use of natural gas is also a significant contributor to indoor air pollution, the health impacts of which are exacerbated in denser developments with smaller dwelling units that make up a significant portion of the City's housing stock. For these reasons, the City prohibited construction of Mixed-Fuel buildings in 2021.

Since enacting that prohibition, the United States Court of Appeals for the Ninth Circuit determined in *California Restaurant Ass'n v. City of Berkeley*, 89 F.4th 1094 (9th Cir. Jan. 2, 2024), that EPCA preempts local laws that would prohibit installation of appliances covered by EPCA. The proposed legislation would explicitly allow natural gas infrastructure for EPCA-covered appliances in otherwise electric-ready buildings to address this issue.

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BUILDING INSPECTION COMMISSION (BIC)

Department of Building Inspection

Voice (628) 652 -3510

49 South Van Ness Avenue, 5th Floor San Francisco, California 94103

September 19, 2024

London N. Breed
Mayor

COMMISSION

Alysabeth
Alexander-Tut
President

Earl Shaddix
Vice-President

Evita Chavez
Catherine Meng
Bianca Neumann
Kavin Williams

Sonya Harris
Secretary

Monique Mustapha
Asst. Secretary

Patrick O'Riordan,
C.B.O., Director

Ms. Angela Calvillo
Clerk of the Board
Board of Supervisors, City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4694

Dear Ms. Calvillo:

RE: File No. 240845

Ordinance amending the Building Code to allow new construction that complies with the Design Guidelines for Electric-Ready Buildings to install gas infrastructure to serve appliances covered by the Energy Policy and Conservation Act (EPCA); adopting findings of local conditions under the California Health and Safety Code; affirming the Planning Department's determination under the California Environmental Quality Act; and directing the Clerk of the Board of Supervisors to forward this Ordinance to the California Building Standards Commission upon final passage.

The Code Advisory Committee (CAC) considered this Ordinance on September 11, 2024 and voted unanimously to make a recommendation to the Building Inspection Commission to approve the changes to the San Francisco Building Code which allow for EPCA Appliances in New Construction.

The Building Inspection Commission met and held a public hearing on September 18, 2024 regarding the proposed amendment to the Building Code contained in Board File No. 240845. The Commissioners supported the legislation and positively discussed the proposed amendments.

The Commissioners voted unanimously to **recommend approval of the Ordinance.**

President Alexander-Tut	Yes
Vice-President Shaddix	Excused
Commissioner Chavez	Yes
Commissioner Meng	Yes
Commissioner Neumann	Yes
Commissioner Williams	Yes

Should you have any questions, please do not hesitate to call me at (628) 652-3510.

Sincerely,

A handwritten signature in blue ink that reads "Sonya Harris". The signature is fluid and cursive, with the first name "Sonya" and last name "Harris" clearly legible.

Sonya Harris
Commission Secretary

cc: Patrick O'Riordan, Director
Mayor London N. Breed
Supervisor Rafael Mandelman
Board of Supervisors



Gas Infrastructure for EPCA Appliances in New Construction

Cyndy Comerford
Climate Program Manager
San Francisco, CA

SAN FRANCISCO
ENVIRONMENT
DEPARTMENT



Existing Federal Legislation

In 1975, Congress passed the Energy Policy and Conservation Act (EPCA) in response to the 1973 oil crisis

EPCA provisions empower the Department of Energy to:

- Set minimum energy conservation standards
- Establish baseline for common products regarding energy efficiency

Preempts local regulations related to energy efficiency/use



Existing Local Law

2020 SFBOS passed ordinance requiring newly constructed buildings to be all-electric (ordinance went into effect 6/21)

Ordinance has limited exceptions for infeasibility and for commercial food service

Ordinance rationale was based on health and safety along with cost-effectiveness and climate impacts



Proposed Ordinance

File No. 240845 updates San Francisco's all-electric ordinance to align with the 9th Circuit Court ruling

It allows natural gas infrastructure only for appliances covered by the EPCA

Compliant buildings will still need to follow the Electric-Ready Building Guidelines



Recommendations and Next Steps

DBI, SFE, and the Building Inspection Commission recommends approval of the ordinance

If this ordinance is passed, the next step would be to update the Electric-Ready Guidelines with DBI through an administrative bulletin

Thank you

Cyndy Comerford
Climate Program Manager

San Francisco Environment Department

SFEnvironment.org



SAN FRANCISCO
ENVIRONMENT
DEPARTMENT

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BOARD of SUPERVISORS



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MEMORANDUM

Date: September 12, 2024
To: Planning Department/Planning Commission
From: John Carroll, Assistant Clerk, Land Use and Transportation Committee
Subject: Board of Supervisors Legislation Referral - File No. 240845
Building Code - Gas Infrastructure for EPCA Appliances in New Construction

- ☒ California Environmental Quality Act (CEQA) Determination
(*California Public Resources Code, Sections 21000 et seq.*)
- ☒ Ordinance / Resolution
- ☐ Ballot Measure
- CEQA determination: Not defined as project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it would not result in a direct or indirect physical change in the environment.
- 9/17/2024 
- ☐ Amendment to the Planning Code, including the following Findings:
(*Planning Code, Section 302(b): 90 days for Planning Commission review*)
- ☐ General Plan ☐ Planning Code, Section 101.1 ☐ Planning Code, Section 302
- ☐ Amendment to the Administrative Code, involving Land Use/Planning
(*Board Rule 3.23: 30 days for possible Planning Department review*)
- ☐ General Plan Referral for Non-Planning Code Amendments
(*Charter, Section 4.105, and Administrative Code, Section 2A.53*)
(Required for legislation concerning the acquisition, vacation, sale, or change in use of City property; subdivision of land; construction, improvement, extension, widening, narrowing, removal, or relocation of public ways, transportation routes, ground, open space, buildings, or structures; plans for public housing and publicly-assisted private housing; redevelopment plans; development agreements; the annual capital expenditure plan and six-year capital improvement program; and any capital improvement project or long-term financing proposal such as general obligation or revenue bonds.)
- ☐ Historic Preservation Commission
- ☐ Landmark (*Planning Code, Section 1004.3*)
- ☐ Cultural Districts (*Charter, Section 4.135 & Board Rule 3.23*)
- ☐ Mills Act Contract (*Government Code, Section 50280*)
- ☐ Designation for Significant/Contributory Buildings (*Planning Code, Article 11*)

Please send the Planning Department/Commission recommendation/determination to John Carroll at john.carroll@sfgov.org.

BOARD of SUPERVISORS



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MEMORANDUM

TO: Patrick O'Riordan, Director, Department of Building Inspection
Sonya Harris, Secretary, Building Inspection Commission

FROM: John Carroll, Assistant Clerk
Land Use and Transportation Committee

DATE: September 12, 2024

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, introduced by Supervisor Mandelman on September 3, 2024:

File No. 240845

Ordinance amending the Building Code to allow new construction that complies with the Design Guidelines for Electric-Ready Buildings to install gas infrastructure to serve appliances covered by the Energy Policy and Conservation Act (EPCA); adopting findings of local conditions under the California Health and Safety Code; affirming the Planning Department's determination under the California Environmental Quality Act; and directing the Clerk of the Board of Supervisors to forward this Ordinance to the California Building Standards Commission upon final passage.

The proposed ordinance is being transmitted pursuant to Charter, Section D3.750-5, for public hearing and recommendation. It is pending before the Land Use and Transportation Committee and will be scheduled for hearing upon receipt of your response.

Please forward me the Commission's recommendation and reports at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: john.carroll@sfgov.org.

c:
Offices of Chair Melgar and Supervisor Mandelman
Tate Hanna, Department of Building Inspection
Patty Lee, Department of Building Inspection



MYRNA MELGAR

DATE: October 2, 2024

TO: Angela Calvillo
Clerk of the Board of Supervisors

FROM: Supervisor Myrna Melgar, Chair, Land Use and Transportation Committee

RE: Land Use and Transportation Committee
COMMITTEE REPORTS

Pursuant to Board Rule 4.20, as Chair of the Land Use and Transportation Committee, I have deemed the following matters are of an urgent nature and request them be considered by the full Board on Tuesday, October 8, 2024.

File No. 240843

Administrative Code - Entertainment Zones

Sponsors: Mayor; Dorsey

File No. 240845

Building Code - Gas Infrastructure for EPCA Appliances in New Construction

Sponsor: Mandelman

File No. 240940

Urging to Resolve a San Francisco Public Utilities Commission Lawsuit with the United States Environmental Protection Agency

Sponsors: Melgar; Peskin

These matters will be heard in the Land Use and Transportation Committee at a Regular Meeting on Monday, October 7, 2024.

Introduction Form

(by a Member of the Board of Supervisors or the Mayor)

I hereby submit the following item for introduction (select only one):

- ☒ 1. For reference to Committee (Ordinance, Resolution, Motion or Charter Amendment)
- ☐ 2. Request for next printed agenda (For Adoption Without Committee Reference)
(Routine, non-controversial and/or commendatory matters only)
- ☐ 3. Request for Hearing on a subject matter at Committee
- ☐ 4. Request for Letter beginning with "Supervisor _____ inquires..."
- ☐ 5. City Attorney Request
- ☐ 6. Call File No. _____ from Committee.
- ☐ 7. Budget and Legislative Analyst Request (attached written Motion)
- ☐ 8. Substitute Legislation File No. _____
- ☐ 9. Reactivate File No. _____
- ☐ 10. Topic submitted for Mayoral Appearance before the Board on _____

The proposed legislation should be forwarded to the following (please check all appropriate boxes):

- ☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission
- ☐ Planning Commission ☒ Building Inspection Commission ☐ Human Resources Department

General Plan Referral sent to the Planning Department (proposed legislation subject to Charter 4.105 & Admin 2A.53):

- ☐ Yes ☒ No

(Note: For Imperative Agenda items (a Resolution not on the printed agenda), use the Imperative Agenda Form.)

Sponsor(s):

Mandelman

Subject:

[Building Code - Gas Infrastructure for EPCA Appliances in New Construction]

Long Title or text listed:

Ordinance amending the Building Code to allow new construction that complies with the Design Guidelines for Electric-Ready Buildings to install gas infrastructure to serve appliances covered by the Energy Policy and Conservation Act (EPCA); adopting findings of local conditions under the California Health and Safety Code; affirming the Planning Department's determination under the California Environmental Quality Act; and directing the Clerk of the Board of Supervisors to forward this ordinance to the California Building Standards Commission upon final passage.

Signature of Sponsoring Supervisor:

