



**COMMUNITY DEVELOPMENT DEPARTMENT  
BUILDING DIVISION**

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**CITY COUNCIL STAFF REPORT**

October 18, 2022

Subject

Amendment to Title 16, Buildings and Construction, of the Cupertino Municipal Code adopting the California Buildings Standards Code and Fire Code and making local exceptions as mandated by the State of California.

Recommended Action

1. Conduct the first reading of Ordinance No. 22-\_\_\_\_\_: “An Ordinance of the City Council of the City of Cupertino Amending Chapters 16.02, 16.04, 16.06, 16.16, 16.20, 16.24, 16.28, 16.32, 16.40, 16.42, 16.54, 16.58, 16.62, 16.64, and 16.68 of Title 16 of the Cupertino Municipal Code adopting the California Building, Residential, Electrical, Mechanical, Plumbing, Energy, Fire, Historical Building Code, Fire, Existing Building Code, Green Building Standards Code, Referenced Standards Code, Uniform Housing Code, and Property Maintenance Code with certain exceptions, deletions, modifications, additions and amendments”;
2. Adopt a Resolution making factual findings with respect to the local geological, topographical, and climatic conditions necessary to make local amendments to the California Building Standards Code.
3. Find the project is exempt from CEQA pursuant to 14 California Code of Regulations Sections 15061(b)(3) and 15308.

Discussion

The Building Standards Commission (BSC) mandates the California Code of Regulations, Title 24, also referred to as the California Building Standards Code be adopted by local jurisdictions. The California Building Standards Code is published in its entirety every three years by order of the California legislature, with supplements published in intervening years. The local Tri-chapter Uniform Code Committee (TUCC) is made up of local Building Officials serving communities in the East Bay (East Bay Chapter), communities along the peninsula from as far north as San Francisco and as far south as Gilroy (Peninsula Chapter) and communities serving the Monterey County area (Monterey Chapter) and takes on the responsibility to review and amend the model codes to enhance regional consistency in application and enforcement of the adopted codes. The committee develops standardized codes, interpretations and local amendments to maintain consistency from one jurisdiction to another.

The State of California allow local municipalities to modify the state adopted building standards to make them more restrictive (not less), provided certain findings are made that the proposed modifications are necessary due to special local climatic, geological or topographical conditions that can affect the health, welfare and safety of local residents. Pursuant to Health and Safety Code 17958, 18941.5 and 13869, Administrative standards do not require a justification or findings to justify proposed amendments. Building Standards, including Green Building Standards, must be justified on the basis of one or more local climatic, geological or topographical conditions. Justifications following the table of amendments to Title 16 of the Cupertino Municipal Code discuss reasons and justifications for each amendment. Each amendment is identified by the Section number used in the proposed Ordinance. The Building and Fire codes were made available to the public in the City Clerk's office prior to the adoption of this ordinance as required by law.

#### Local Amendments:

California's Health and Safety Code (HSC) requires local jurisdictions to adopt the California Building Standards Code for local enforcement with 180 days after Title-24, California Code of Regulations (C.C.R.) is published. In adopting Title-24 for local enforcement, the jurisdiction may amend the standards if such amendments are necessary to address a local geologic, topographic or climatic condition. Cupertino has worked with other local jurisdictions in the Bay Area to ensure consistency among amendments as part of the TUCC. The Local Amendments included in the code adoption package that are recommended to be adopted by City Council are more stringent than the State Codes and are identified in Exhibit A of the "Matrix Table for Justification and Findings for Local Amendments".

Here is a summary of the significant changes to our ordinance

- The Ordinance reflects the state mandated adoption of the 2022 edition of the California Building, Residential, Electrical, Mechanical, Plumbing, Energy, Historical Building, Fire, Existing Building, Referenced Standards and Green Building Standards codes by a single ordinance.
- Chapter 16.02 removes the administrative code requirements in the building code and places them in Chapter 16.04. Chapter 16.02 now acknowledges the adoption of the 2022 California Administrative Code in its entirety without local amendments.
- The Fire Protection and Life Safety System requirements of Section 903.2 for both the Building and Fire codes have been updated to better define when fire sprinkler protection systems are required.
- The 2021 International Property Maintenance Code (IPMC) is adopted in Chapter 16.42. IPMC establishes minimum property maintenance requirements that contain clear and specific property maintenance and improvement provisions. The IPMC provides staff with added tools to ensure properties are maintained healthy and safe, and that standardized housing is provided in Cupertino.
- Chapter 16.58 of the Ordinance incorporates the local Green Building requirements that was adopted by City Council in 2012 and re-adopted in 2019.

- The All-Electric Buildings Reach Codes adopted by City Council in 2019 was relocated from the Energy Code (Chapter 16.54) to its own Chapter (Chapter 16.32).
- Incorporates the Electric Vehicle Charging Station Reach Code that was adopted by City Council in 2019, including updates developed by Silicon Valley Clean Energy (SVCE) and the Statewide reach codes project.<sup>1</sup>

### Building Code Statement of Findings

Amendments to the 2022 California Code of Regulations are reasonably necessary for the protection of the public health, safety and welfare, due to the local climatic, geologic or topographical conditions specified as follows:

The Bay Area region is a densely populated area having buildings constructed over and near a vast array of fault systems capable of producing major earthquakes, including but not limited to the recent 1989 Loma Prieta Earthquake. Seismically, Cupertino is situated adjacent to active earthquake faults capable of producing substantial seismic events. The city has the San Andreas and Sargent-Berocal faults running through the lower foothills and the Monta Vista fault system closer to the valley floor area. The Hayward fault is just northeast of the city which would have a major effect upon the City if it were to rupture. Adding to this threat, the number of vehicles driven in Cupertino is steadily increasing with commuters driving to and through the city either to their homes, shopping and/or places of employment. Since the City is divided by major freeways and expressways, the occurrence of a major earthquake would significantly impact the ability of fire crews to respond to emergencies should one or more freeway/expressway bridges collapse or be substantially damaged.

Some of the amendments include structural provisions of the code that were reviewed and recommended by the TUCC. These proposed amendments are necessary for the protection of the public health, safety and welfare, due to the local climatic, geologic or topographical conditions specified as follows:

### Fire Code Statement of Findings

Amendments to the 2022 California Fire Code are reasonably necessary for the protection of the public health, safety and welfare, due to the local climatic, geologic or topographical conditions specified as follows:

The City of Cupertino experiences low humidity, high winds and warm temperatures during the summer months creating conditions which are particularly conducive to the ignition and spread of grass, brush and structure fires. Additionally, the City of Cupertino is geographically situated adjacent to active earthquake faults capable of producing substantial seismic events. Since the City of Cupertino is divided by an active Union Pacific railway service line (freight), creeks, highways, and other substantial traffic corridors, the occurrence of a major earthquake would significantly impact the ability of fire crews to

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<sup>1</sup> <https://bayareareachcodes.org/>

respond to emergencies should one or more bridges collapse or be substantially damaged. In addition, fire suppression capabilities would be severely limited should the water system be extensively damaged during the seismic event. Therefore, mitigation measures are necessary such as: automatic fire suppression systems, communications systems, access to buildings, seismic protection, safety controls for hazardous materials and other safe guards in order to minimize the risks to citizens, firefighters and property due to the severity of the fire threat and potential response delays.

The local Fire Code amendments to the California Fire Code provided by Santa Clara County were developed by the Santa Clara County Fire Marshals Association and endorsed by the Santa Clara County Fire Chiefs Association. The intent is to have consistency in the application of codes related to fire safety. The amendments have been provided to all Cities within the Santa Clara County Fire Department jurisdiction, as well as surrounding County jurisdictions, to be included in their respective code adoption package for consistency of enforcement.

#### Sustainability Impact

The 2022 Green Buildings Standards Code and 2022 Energy Code supports Cupertino's sustainability strategy by increasing requirements in several key areas. For example, electric heat pumps are now the preferred form of space conditioning statewide in the 2022 Energy Code. Another example is a new requirement that requires installation of electric vehicle infrastructure when an existing parking lot is altered. These statewide changes, in addition to Cupertino's locally adopted green building provisions, are important tools to implement the Climate Action Plan 2.0.

#### Effective Date of Code Adoption:

Last July 1, 2022, the BSC published the 2022 edition of the California Building Standards Code. The 2022 California Building, Residential, Electrical, Mechanical, Plumbing, Energy, Fire, Historical Building Code, Existing Building Code, Referenced Standards Code, and Green Building Standards Codes as mandated by the State of California will become effective on January 1<sup>st</sup>, 2023. Plans submitted after January 1<sup>st</sup>, 2023, will be required to comply with the new 2022 California Codes along with the local adopted amendments.

#### Environmental Review:

Exempt, under the provision of the California Environmental Quality Act of 1970, as amended, 14 California Code of Regulations Section 15061(b)(3), and as a regulatory action to protect the environment under 14 California Code of Regulations Section 15038.

#### Fiscal Impact

No fiscal impact.

Prepared by: Albert Salvador, Assistant Director CDD / Building Official

Reviewed by: Ben Fu, Director of Community Development

Approved for Submission by: Pamela Wu, City Manager

Attachments:

A – Draft Ordinance amending Title 16 of the Cupertino Municipal Code – Strikeout

B – Draft Ordinance amending Title 16 of the Cupertino Municipal Code - Clean

C – Draft Resolution including Justification and Findings for Local Amendments