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CITY COUNCIL STAFF REPORT

November 1, 2016

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.

Recommendation:

1. Conduct the first reading of an "Ordinance of the City Council of the City of Cupertino Amending Chapters 16.02, 16.04, 16.06, 16.16, 16.24, 16.40, 16.54, 16.58, and 16.80 Repealing Chapter 16.42 of Title 16 of the Cupertino Municipal Code adopting the 2016 California Building, Residential, Electrical, Mechanical, Plumbing, Energy, Historical, Fire, Existing Building Code, Green Building Standards Codes with Certain Exceptions, Modifications, and Additions";
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.

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.

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”.

The Ordinance amendment achieves the following:

- Adopts the 2016 edition of the California Building, Residential, Electrical, Mechanical, Plumbing, Energy, Historical Building, Fire, Existing Building, and Green Building Standards codes by a single ordinance.
- Incorporates local Building Code amendments to the California Code of Regulations developed by the Tri-chapter Uniform Code Committee (TUCC).
- Incorporates local Fire Code amendments to the California Fire Code developed by the Santa Clara County Fire Marshals Association and endorsed by the Santa Clara County Fire Chiefs Association.

These local amendments are discussed in detail below:

1. Amendment Related to Seismic Requirements

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:

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.

Building Code Amendments:

- Updated Administrative Section 16.02.150 to include 'Work exempt from permit' and Permit application requirements inadvertently left out of last code cycle.
- Adopted State Code Administrative code language in 16.02.200 which state general requirements for submittal documents.
- Updated Residential Fire Sprinkler requirements including the exemption of Fire sprinkler systems for new Accessory Dwelling Units where the primary residence is not provided with one (Section 16.06.050) to be consistent with the new Government Code requirements (GC Section 65852.2) which will become effective January 1, 2017.
- Updated the City's Red, Yellow, and Green Placards used to designate the condition for continued occupancy of buildings and structures to include reference to applicable California Penal Code Sections in Section 16.80.040

Fire Code Amendments:

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. Fire suppression capabilities will be severely limited should the water system be extensively damaged during the seismic event. The number of vehicles on the road at any given time during the day can play a major role on the response time of emergency services thus greatly increasing the risk to property and life. Additionally, the remoteness and steepness of hillside areas in the City significantly impacts the ability of emergency responders to extinguish or control wildland or structure fires.

The local Fire Code amendments to the California Fire Code provided by the John Justice, Santa Clara County Deputy Chief, 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.

One major code amendment added to the Fire Code relates to mobile fueling. The mobile fueling industry has been working with the fire service locally and at the state level. The Santa Clara County Fire Marshals have been involved in these code amendments to allow mobile fueling since the new concept surfaced earlier this year. There has been tremendous pressure to adopt these standards from the mobile fueling industry in several of the cities in our County.

One major code amendment added to the Fire Code relates to mobile fueling. It adopts Section 5707 of the 2016 California Fire Code to regulate mobile fueling devices. In the past, the City had not had any reason to adopt this section. However, due to new mobile apps that allow on-demand mobile fueling, the Santa Clara County Fire Department has encouraged cities to adopt these State standards.

Effective Date of Code Adoption:

Last July 1, 2016, the BSC published the 2016 edition of the California Building Standards Code. The 2016 California Building, Residential, Electrical, Mechanical, Plumbing, Energy, Historical Building, Fire, Existing Building, and Green Building Standards Codes as mandated by the State of California will become effective on January 1st, 2017. Because the local amendments to the state adopted codes cannot become effective until after the 30th day of the 2nd reading, staff will need to schedule the 1st and 2nd hearings so that the second hearing will be scheduled on the November 14th Council meeting. Plans submitted after January 1st, 2017, will be required to comply with the new 2016 California Codes along with the local adopted amendments.

Potential Additional Amendments for 2017:

The League of California Cities provides legislative briefings as an overview of upcoming legislative issues and information regarding new laws for 2017 which will affect all cities. These briefings are designed to help city officials stay up to date and in compliance with the new laws. Because the League of California's City's update for bills effective in 2017 is not available until November, 2016, any legislative amendments required to be included in the ordinance will need to be deferred. A supplemental staff report and ordinance change may be necessary upon review of any additional legislative changes scheduled to be released soon after the publication of this report.

Summary of Amendments:

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. Many of the

proposed amendments have been renumbered to match the revised format of the International Codes upon which several of the California codes are based. 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.

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).

Prepared by: Albert Salvador, Building Official

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Reviewed by: Aarti Shrivastava, Assistant City Manager

Approved for Submission by: David Brandt, City Manager

Attachments:

- A. Draft Ordinance amending Title 16 of the Cupertino Municipal Code
- B. Draft Resolution including Justification and Findings for Local Amendments