

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF CUPERTINO
MAKING FINDINGS RELATING TO LOCAL CLIMATIC, GEOLOGICAL,
OR TOPOGRAPHICAL CONDITIONS SUPPORTING AMENDMENTS
AND CHANGES TO THE 2019 CALIFORNIA ENERGY AND GREEN
BUILDING STANDARDS CODES.

WHEREAS, the City Council of the City of Cupertino intends to pass an ordinance making modifications and changes to the 2019 editions of the California Energy Code and Green Building Standards Code as adopted by the City of Cupertino; and

WHEREAS, the California Health and Safety Code Sections 17958, 17958.5, 17958.7, and 18941.5 require the governing body of a city, before making any modification or amendment to the California Building Standards Code, to make an express finding that such modifications or changes are reasonably necessary because of local climatic, geological or topographical conditions; and

WHEREAS, the California Codes and Standards Reach Code Program has determined that specific modifications to the 2019 State Energy Code for climate zone 4, in which the City of Cupertino is located, are cost-effective; and

WHEREAS, as more specifically set forth in the December 17th, 2019 staff report for this item by Andre Duurvoort, the City's Sustainability Manager, a departure from the Building Standards Code is reasonably necessary due to local climatic, geological, or topographical conditions;

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council hereby finds the following facts to be true:
 - A. Scientific evidence has established that natural gas combustion, procurement and transportation produce significant greenhouse gas emissions that contribute to global warming and climate change;
 - B. In 2015, the Cupertino City Council adopted a Climate Action Plan which puts Cupertino on a path to reduce greenhouse gas emissions in response to climate change;

- C. On September 18, 2018, the Cupertino City Council adopted a climate emergency declaration, calling for a mobilization effort to end citywide greenhouse gas emissions as quickly as possible;
- D. The City recognizes the need for an organized and equitable transition away from fossil fuels used in buildings and transportation;
- E. Substituting electric systems in new buildings fueled by clean energy supplied by the Silicon Valley Clean Energy Authority is linked to significantly lower greenhouse gas emissions and is cost competitive because of the cost savings associated with all-electric designs that avoid new gas infrastructure; The most cost-effective time to integrate electrical infrastructure is in the design phase of a building project because building systems and spaces can be designed to optimize the performance of electrical systems and the project can take full advantage of avoided costs and spaces requirements from the elimination of natural gas piping and venting for combustion air safety;
- F. The additions and modifications to the California Energy Code and Green Building Standards Code listed below are reasonably necessary because of the following local climatic, geologic and topographical conditions:
 - i. Cupertino is situated along a wildland-urban interface and is extremely vulnerable to wildfires, and human activities releasing greenhouse gases into the atmosphere cause increases in worldwide average temperature, drought conditions, vegetative fuel, and length of fire seasons, all of which have the potential to affect Cupertino;
 - ii. Cupertino is situated adjacent to active earthquake faults capable of producing substantial seismic events. The San Andreas and Sargent-Berocal faults run through the lower foothills and the Monta Vista Fault is closer to the valley floor area. The Hayward fault is North East of the City which would also present a risk to Cupertino in the event of an earthquake;
 - iii. In the event of a natural disaster such as earthquake or fire, the natural gas infrastructure in and around the City of Cupertino presents risks to the life and safety of residents and first responders. Moreover, the electric grid system can be brought back online more swiftly than the natural gas pipeline when the community is recovering from such an event;
 - iv. Combustion of natural gas in buildings and gas in vehicles exacerbates poor indoor and outdoor air quality in the City of Cupertino;
 - v. Vehicular traffic through Cupertino is significant, and continues to increase as Cupertino is an employment center as well as the location of residential projects. Moreover, the observed increase in plug-in electric vehicle adoption reduces the climate impact of vehicular greenhouse gas emissions;
 - vi. The Environmental Resources and Sustainability Element of the City of Cupertino's General Plan recognizes that the community's environmental resources are fragile, invaluable and interrelated, and protecting and sustaining the City's viable ecological communities and environmental resources will result in the protection of both the human and natural environments. Moreover, green building regulations further the

Sustainability Principles of the General Plan involving building and land development, disposal of construction and demolition debris, storm water quality and flood protection, tree protection, water conservation, landscaping and resource conservation.

2. Based on the above facts, the City Council makes the following finding: that Cupertino's local geological, topographical and climatic conditions require amendments to the California Energy Code and the California Green Building Standards Code to establish more restrictive conditions to reduce reliance on natural gas infrastructure and associated greenhouse gas emissions in new buildings, thereby reducing the environmental and health hazards produced by the consumption and transportation of natural gas, and to promote electric vehicle charging infrastructure and additional green building measures, as more specifically set forth in the Staff Report from Andre Duurvoort, the City's Sustainability Manager, and as summarized in the chart attached hereto as Exhibit A.
3. Based on the above findings, the City Council determines that it is necessary to make local amendments to the California Energy and Green Building Standards Codes based upon the local conditions.

BE IT FURTHER RESOLVED that this Resolution is not a project under the requirements of the California Environmental Quality Act, together with related State CEQA Guidelines (collectively, "CEQA") because it has no potential for resulting in physical change in the environment. In the event that this Resolution is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility that the action approved may have a significant effect on the environment. CEQA applies only to actions which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In this circumstance, the proposed action would have no or only a de minimis effect on the environment. The Resolution is also exempt from CEQA under CEQA Guidelines section 15308, because it is a regulatory action for the protection of the environment. The foregoing determination is made by the City Council in its independent judgment.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 17th day of December, 2019, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED: _____ Steven Scharf, Mayor City of Cupertino	_____ Date
ATTEST: _____ Grace Schmidt, City Clerk	_____ Date

EXHIBIT A

Matrix of Justifications for Local Amendments to 2019 California Energy Code (Title 24, Part 6)						
Cupertino Municipal Code Section(s)	State Code Section(s)	Title	Add	Deleted	Amended	Justification (see below)
16.54.100	100.0(e)(2)(A) 100.0(e)(3)(A)	Scope			X	i-iv
16.54.110	100.1(b)	Definitions and Rules of Construction			X	iii and iv

Matrix of Justifications for Local Amendments to 2019 California Green Building Standards Code (Title 24, Part 11)						
Cupertino Municipal Code Section(s)	State Code Section(s)	Title	Add	Deleted	Amended	Justification (see below)
16.58.100	101.10	Mandatory Requirements			X	vi
16.58.110	101.10.1	Project Types	X			vi
16.58.120	101.10.1.1	Residential Projects	X			vi
16.58.130	101.10.1.1.1	Residential New Construction – Equal to or less than nine (9) homes	X			vi
16.58.140	101.10.1.1.2	Residential New Construction – Greater than nine (9) homes or more	X			vi
16.58.150	101.10.1.1.3	Major multi-family residential renovations/additions.	X			vi
16.58.160	101.10.1.1.4	Non-residential new construction, small	X			vi
16.58.170	101.10.1.1.5	Non-residential new construction, medium	X			vi
16.58.180	101.10.1.1.6	Non-residential new construction, large	X			vi
16.58.190	101.10.1.1.7	Non-residential renovations/additions, minor.	X			vi
16.58.200	101.10.1.1.8	Non-residential renovations/additions, major	X			vi
16.58.210	101.10.1.1.9	Mixed-Use	X			vi

16.58.220	Table 101.10	Cupertino minimum green building requirements	X			vi
16.58.230	101.10.2	Alternate green building standards	X			vi
16.58.240	102.3	Verification.			X	vi
16.58.260	102.3.1	Exemptions.	X			vi
16.58.280	202(I) 202(J) 202(K) 202(L) 202(M) 202(N)	Electric Vehicle Charging Definitions	X		X	iv and v
16.58.290	303.1.1	Tenant Improvements.			X	vi
16.58.300	4.304.1.1	Compliance with local water-efficient landscape ordinance- Residential.	X			vi
16.58.310	5.304.1.1	Compliance with local water-efficient landscape ordinance- Non-Residential.	X			vi
16.58.400	4.106.4 4.106.4.1 4.106.4.1.1 4.106.4.2 4.106.4.2.2	Electric Vehicle Charging for Newly Constructed Residential and Multifamily Buildings			X	iv and v
16.58.400	4.106.4.2.3 4.106.4.2.4 4.106.4.2.5	Electric Vehicle Charging for Newly Constructed Residential and Multifamily Buildings		X		iv and v
16.58.420	5.106.5.3 5.106.5.3.1 5.106.5.3.2 5.106.5.3.3 5.106.5.3.4	Electric Vehicle Charging for Newly Constructed Nonresidential Buildings			X	iv and v
16.58.420	5.106.5.3.5	Electric Vehicle Charging for Newly Constructed Nonresidential Buildings		X		iv and v

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