ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO AMENDING CITY CODE 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, 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.

WHEREAS, pursuant to Sections 17922, 17958, 17958.5, 17958.7, 17958.11, and 18941.5 of the California Health and Safety Code, the City of Cupertino may adopt the provisions of the 2022 California Administrative Code (Part 1 of Title 24), 2022 California Building Code (Part 2 of Title 24, based on the 2021 International Building Code), the 2022 California Residential Code (Part 2.5 of Title 24 based on the 2021 International Residential Code), the 2022 California Electrical Code (Part 3 of Title 24 based on the 2020 National Electrical Code), The 2022 California Mechanical Code (Part 4 of Title 24 based on the 2021 Uniform Mechanical Code), the 2022 California Plumbing Code (Part 5 of Title 24 based on the 2021 Uniform Plumbing Code), the 2022 California Energy Code (Part 6 of Title 24), the 2022 California Historical Building Code (Part 8 of Title 24), the 2022 California Fire Code (Part 9 of Title 24), the 2022 California Existing Building Code (Part 10 of Title 24 based on the 2021 International Existing Building Code), the 2022 California Green Building Standards Code (Part 11 of Title 24), the 2022 California Referenced Standards Code (Part 12 of Title 24) with certain amendments to those provisions which are reasonably necessary to protect the health, welfare and safety of the citizens of Cupertino because of the local climatic, geological, and topographical conditions; and

WHEREAS, over the years, the City Council made factual findings set forth in respective sections of Chapter 16 of the Cupertino Municipal Code relating to the amendments to the California codes; and

WHEREAS, the factual findings made then continue to be valid and relate to the amendments made to the California codes in this adoption, and such findings are incorporated by reference; and

WHEREAS, in addition to those findings set forth in the provisions of the Cupertino Municipal Code, the City Council adopted a resolution making factual findings with

respect to the local geological, topographical, and climate conditions including, but not limited to, the following:

1) The Bay Area region is a densely populated area with 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;

2) 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 presents a risk to Cupertino in the event of an earthquake;

3) Vehicular traffic through Cupertino is significant, and continues to increase as Cupertino is an employment center as well as the location of residential projects;

4) Cupertino is divided by major freeways and expressways, the occurrence of a major earthquake could impact the ability of fire crews to respond to emergencies should one or more of the freeways or expressways collapse, be substantially damaged, or become gridlocked;

5) Fire suppression capabilities would be severely limited should the water system be damaged during an earthquake;

6) 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 structural fires;

7) Cupertino's topography contains remote, steep hillsides which further limits the ability of emergency responders to extinguish or control wildland or structural fires; and

8) The local geographic, topographic and climatic conditions require amendments to the California Codes to establish more restrictive conditions to improve structural integrity of the buildings in the event of a seismic incident and provide other protections to protect against the increased risk of fire.

WHEREAS, a copy of all of the Codes to be incorporated by reference into this Ordinance were made available prior to the adoption of this Ordinance as required by law;

WHEREAS, this Ordinance was found to be categorically exempt from environmental review per the provisions of the California Environmental Quality Act of 1970, as amended, 14 California Code of Regulations, Section 15061(b)(3); and

WHEREAS, the City Council of the City of Cupertino is the decision-making body for this Ordinance; and

WHEREAS, this Council has reviewed and considered the Statement of Exemption determination under CEQA prior to taking any approval actions on this Ordinance;

NOW, THEREFORE, THE CITY COUNCIL OF THE OF CITY OF CUPERTINO DOES ORDAIN AS FOLLOWS:

SECTION 1: Adoption.

The Cupertino Municipal Code is hereby amended as set forth in Attachment A.

SECTION 2: Severability and Continuity.

The City Council declares that each section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance is severable and independent of every other section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance. If any section, sub-section, paragraph, sub-paragraph, sentence, clause or phrase of this ordinance is held invalid, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, the City Council declares that it would have adopted the remaining provisions of this ordinance irrespective of such portion, and further declares its express intent that the remaining portions of this ordinance should remain in effect after the invalid portion has been eliminated. To the extent the provisions of this Ordinance are substantially the same as previous provisions of the Cupertino Municipal Code, these provisions shall be construed as continuations of those provisions and not as an amendment to or readoption of the earlier provisions.

SECTION 3: California Environmental Quality Act.

This Ordinance 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 Ordinance 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 Ordinance 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.

SECTION 4: Effective Date.

This Ordinance shall take effect thirty days after adoption as provided by Government Code Section 36937.

SECTION 5: Publication.

The City Clerk shall give notice of adoption of this Ordinance as required by law. Pursuant to Government Code Section 36933, a summary of this Ordinance may be prepared by the City Clerk and published in lieu of publication of the entire text. The City Clerk shall post in the office of the City Clerk a certified copy of the full text of the Ordinance listing the names of the City Council members voting for and against the ordinance.

INTRODUCED at a regular meeting of the Cupertino City Council this 18th day of October, 2022; and

ENACTED at a regular meeting of the Cupertino City Council this 1st day of November, 2022, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED: _____ _____ Darcy Paul, Mayor City of Cupertino	_____ Date
ATTEST: _____ _____ Kirsten Squarcia, City Clerk	_____ Date
APPROVED AS TO FORM: _____ _____ Christopher D. Jensen, City Attorney	_____ Date

the building official's determination. A hearing shall be scheduled within thirty (30) days before the Planning Commission. If the appeal is not filed within the time specified above, the applicant shall be deemed to waive the right to appeal.

Chapter 16.32 of the Cupertino Municipal Code is hereby repealed in its entirety and replaced with the following Chapter 16.32 to be entitled, numbered, and to read as follows:

Chapter 16.32: Local Sustainability Requirements for Newly Constructed Buildings

Section

16.32.010 Applicability

A. The requirements of this Chapter shall apply to the building permits for all newly constructed buildings proposed to be located in whole or in part within the City. Nonresidential tenant improvements are not subject to the all-electric building requirement for new construction in Section 16.32.030
B. The all-electric building provisions shall apply to permit applications on or after the effective date of this Chapter, and in perpetuity.
C. The requirements of this Chapter shall not apply to the use of portable propane appliances for outdoor cooking or heating.
D. This chapter shall in no way be construed as amending California Energy Code requirements under California Code of Regulations, Title 24, Part 6, nor as requiring the use or installation of any specific appliance or system as a condition of approval.
E. The requirements of this Chapter shall be incorporated into conditions of approval for building permits under Municipal Code Chapter 16.

16.32.020 Definitions

A. ALL-ELECTRIC BUILDING: is a building that has no natural gas or propane plumbing installed within the building, and that uses electricity as the sole source of energy for its space heating, water heating (including indoor and outdoor pools and spas), cooking appliances, outdoor kitchens, outdoor fireplaces, and clothes drying appliances. All-Electric Buildings may include solar thermal pool heating**.**

16.32.030 All-Electric Provisions for Newly Constructed Buildings

A. Newly constructed buildings shall be all-electric as defined in Section 16.32.020. For the purposes of All-Electric Building requirements, newly constructed buildings shall not include newly constructed additions and tenant improvements in existing buildings.

Exception 1: Nonresidential F, H, and L Occupancies, or other similar research & development uses as determined by the building official, are exempt from the all-electric building provisions of this section. If this Exception applies, the applicant shall comply with the pre-wiring provision of Note 1 below.

Exception 2: "Essential Facilities," as defined by the California Building Code are exempt from the all-electric building provisions of this section. If this Exception applies, the applicant shall comply with the pre-wiring provision of Note 1 below.

Exception 3: Non-residential buildings containing a for-profit restaurant open to the public or an employee kitchen may apply to the Building Official for a modification to install gas-fueled cooking appliances. This request must be based on a business-related reason to cook with a flame that cannot be reasonably achieved with an electric fuel source. The Building Official may grant this modification if he or she finds the following:

1. There is a business-related reason to cook with a flame and;
2. This need cannot be reasonably achieved with an electric fuel source; and
3. The applicant has employed reasonable methods to mitigate the greenhouse gas impacts of the gas-fueled appliance.

If the Building Official grants a modification, the applicant shall comply with the pre-wiring provision of Note 1 below.

Exception 4: If the applicant establishes that there is not an all-electric prescriptive compliance pathway for the building under the Energy Code, and that the building is not able to achieve the performance compliance standard applicable to the building under the Energy Code using commercially available technology and an approved calculation method, then the Building Official may grant a modification. If the Building Official grants a modification pursuant to this Exception, the applicant shall comply with the pre-wiring provision of Note 1 below.

Exception 5: Hotels and motels with eighty or more guestrooms may utilize fuel gas in on-site commercial clothes drying equipment. The applicant shall comply with the pre-wiring provision of Note 1 below.

Note 1: If natural gas appliances are used under Exception 1, 2, 3, 4, and/or 5, each natural gas appliance location in such building must be electrically pre-wired for future electric appliance installation. Each such natural gas appliance location shall include the following:

i. A dedicated circuit, phased appropriately, for each appliance. Each such circuit shall have a minimum amperage requirement for a comparable electric appliance (based on the manufacturer's recommendations), an electrical receptacle or junction box that is connected to the electric panel, conductors of adequate capacity within 3 feet of the appliance. Each such circuit shall be accessible with no obstructions;
ii. Both ends of the unused conductor or conduit shall be labeled with the words "For Future Electric Appliance" and be electrically isolated;
iii. A reserved circuit breaker space shall be installed in the electrical panel adjacent to the circuit breaker for the branch circuit and labeled for each circuit, an example is as follows: "For Future Electric Range"; and
iv. All electrical components, including conductors, receptacles, junction boxes, or blank covers, related to this section shall be installed in accordance with the California Electrical Code.

Note 2: If a building is entitled to apply Exception 1, 2, 3, 4 and/or 5, the Building Official is authorized to approve alternative materials, design, and methods of construction or equipment per California Building Code Section 104.

[Title 16 – Chapter 16.36 – No Change]

CHAPTER 16.40: FIRE CODE

Section

A. The provisions of the 2021 International Property Maintenance Code and each and all of the regulations, provisions, conditions and terms of the code is referred to as if fully set forth in this chapter, and is by such reference adopted.

B. One (1) copy of the code therefore is on file in the office of the Building Official pursuant to Health and Safety Code Section 18942 and are made available for public inspection.

Chapter 16.54 of the Cupertino Municipal Code is hereby repealed in its entirety and replaced with the following Chapter 16.54 to be entitled, numbered, and to read as follows:

CHAPTER 16.54: ENERGY CODE

A. The provisions of the 2022 California Energy Code and each and all of the regulations, provisions, conditions and terms of the code is referred to as if fully set forth in this chapter, and is by such reference adopted.

B. One (1) copy of the code therefore is on file in the office of the Building Official pursuant to Health and Safety Code Section 18942 and are made available for public inspection.

[Title 16 – Chapter 16.56 – No Change]

Chapter 16.58 of Title 16 of the Cupertino Municipal Code is hereby repealed in its entirety and replaced with the following Chapter 16.58 to be entitled, numbered, and to read as follows:

Chapter 16.58: GREEN BUILDING STANDARDS CODE

Section

16.58.010 Adoption of the 2022 California Green Building Standards Code.

A. The provisions of the 2022 California Green Building Standards Code and each and all of the regulations, provisions, conditions and terms of the code is referred to as if fully set forth in this chapter, and, except as to additions, deletions and amendments hereinafter described, such code is hereby adopted and made a part hereof, the same as if fully set forth in this Chapter.

   1. In accordance with California Health and Safety Code Sections 17958.7 and 18941.5, express findings that modifications to the California Green Building Standards Code are reasonably necessary because of local climatic, geological, or topographical conditions are either already on file with the California Building Standards Commission or will be filed prior to the effective date of the ordinance codified in this Chapter.

B. One (1) copy of the code therefore is on file in the office of the Building Official pursuant to Health and Safety Code Section 18942 and is made available for public inspection.

16.58.015 Adoption of Appendix Chapters.

No Appendix Chapters from the 2022 California Green Building Standards Code have been adopted.

16.58.020 Local Amendments.

The following provisions of this Chapter shall constitute local amendments to the cross-referenced provisions of the 2022 California Green Building Standards Code and shall be deemed to amend the cross-referenced sections of said Code with the respective provisions set forth in this Chapter.

16.58.030 Title.

Amend Section 101.1 of the 2022 California Green Building Standards Code to read as follows:

101.1 Title. These regulations shall be known as the California Green Building Standards Code as amended by the City of Cupertino and may be cited as such and will be referred to herein as "this code." The California Green Building Standards Code as amended by the City of Cupertino is an amendment to Part 11 of 12 parts of the official compilation and publication of the adoption, amendment, and repeal of building regulations to the California Code of Regulations, Title 24, also referred to as the California Building Standards Code.

16.58.040 Scope.

Amend Section 101.3 of the 2022 California Green Building Standards Code to read as follows:

101.3 Scope. The provisions of this code shall apply to the planning, design, operation, construction, use and occupancy of every newly constructed building or structure, unless otherwise indicated in this code for the City of Cupertino.

The California Green Building Standards Code also is hereby amended to apply to additions, renovations and tenant improvements of privately-owned buildings and structures in accordance with the provisions of this Chapter.

It is not the intent that this code substitute or be identified as meeting the certification requirements of any private, third-party green building program.

16.58.100 Mandatory Requirements.

Amend Section 101.10 of the 2022 California Green Building Standards Code to read as follows:

101.10 Mandatory Requirements. This code contains mandatory green building measures. In addition, this Chapter contains required minimum green building measures as amended by the City of Cupertino. All new buildings and structures, additions, renovations and tenant improvements subject to requirements in Table 101.10 shall comply with the mandatory measures of the 2022 California Green Building Standards Code as adopted by the state in addition to local amendments included in this code, regardless of height or number of stories, unless specifically exempted by this code.

16.58.110 Project Types.

Add Section 101.10.1 of the 2022 California Green Building Standards Code to read as follows:

101.10.1 Project Types - as set forth in Table 101.10.

16.58.120 Residential Projects.

Add Section 101.10.1.1 of the 2022 California Green Building Standards Code to read as follows:

101.10.1.1 Residential Projects - as set forth in Table 101.10.

16.58.130 Residential New Construction – Equal To or Less than Nine (9) Homes.

Add Section 101.10.1.1.1 of the 2022 California Green Building Standards Code to read as follows:

101.10.1.1.1 Residential New Construction - Equal To or Less than Nine (9) Homes - as set forth in Table 101.10.

16.58.140 Residential New Construction – Greater than Nine (9) Homes.

Add Section 101.10.1.1.2 of the 2022 California Green Building Standards Code to read as follows:

101.10.1.1.2 Residential New Construction - Greater than Nine (9) Homes or More - as set forth in Table 101.10.

16.58.150 Major Multi-Family Residential Renovations/Additions.

Add Section 101.10.1.1.3 of the 2022 California Green Building Standards Code to read as follows:

101.10.1.1.3 Major Multi-Family Residential Renovations/Additions - as set forth in Table101.10. Requirements shall only apply to the area of renovation/addition.

16.58.160 Non-Residential New Construction, Small.

Add Section 101.10.1.1.4 of the 2022 California Green Building Standards Code to read as follows:

101.10.1.1.4 Non-Residential New Construction, Small - as set forth in Table 101.10.

16.58.170 Non-Residential New Construction, Medium.

Add Section 101.10.1.1.5 of the 2022 California Green Building Standards Code to read as follows:

101.10.1.1.5 Non-Residential New Construction, Medium - as set forth in Table 101.10.

16.58.180 Non-Residential New Construction, Large.

Add Section 101.10.1.1.6 of the 2022 California Green Building Standards Code to read as follows

101.10.1.1.6 Non-Residential New Construction, Large - as set forth in Table 101.10.

16.58.190 Non-Residential Renovations/Additions, Minor.

Add Section 101.10.1.1.7 of the 2022 California Green Building Standards Code to read as follows:

101.10.1.1.7 Non-Residential Renovations/Additions, Minor – as set forth in Table 101.10. Requirements shall only apply to the scope of work of renovation/addition.

16.58.200 Non-Residential Renovations/Additions, Major.

Add Section 101.10.1.1.8 of the 2022 California Green Building Standards Code to read as follows:

101.10.1.1.8 Non-Residential Renovations/Additions, Major - as set forth in Table 101.10. Requirements shall only apply to the area of renovation/addition.

16.58.210 Tenant Improvements.

Add Section 101.10.1.1.9 of the 2022 California Green Building Standards Code to read as follows:

101.10.1.1.9 Tenant Improvements. Except as specified herein, the provisions of this code shall apply to the applicable tenant or occupant improvements to a project.

16.58.220 Mixed-Use.

Add Section 101.10.1.1.9 of the 2022 California Green Building Standards Code to read as follows:

101.10.1.1.9 Mixed-Use - as set forth in Table 101.10.

16.58.230 Table 101.10 – Added.

Add Table 101.10 of the 2022 California Green Building Standards Code to read as follows:

Project Type	*Minimum Green Building Requirement*	*Required Verification*
A. NEW CONSTRUCTION		
Residential		
Single Family and Multi-Family homes equal to or less than 9 homes:	• CALGreen Building Code in accordance with CALGreen's minimum thresholds.	City Review
Single Family and Multi-Family homes greater than 9 homes:	• GPR certified at minimum 50 points or • LEED Silver or Alternate Reference Standard per Section 101.10.2	Third Party GPR or LEED certification as applicable Alternate Reference Standard: See Section 101.10.2
Non-Residential		
Small, Less than 25,000 SF:	• CALGreen Building Code * per Chapter 5 of the California Green Building Standards Code	City Review
Mid-Size, from 25,000 to 50,000 SF:	• LEED Certified or • Alternate Reference Standard per Section 101.10.2	Third Party LEED Certification Alternate Reference Standard: See Section 101.10.2
Large, Greater than 50,000 SF:	• LEED Silver or • Alternate Reference Standard per Section 101.10.2	Third Party LEED Certification Alternate Reference Standard: See Section 101.10.2
B. RENOVATIONS AND ADDITIONS		
Residential		

Single-Family	• CALGreen Building Code in accordance with CALGreen's minimum thresholds.	City Review
Multi-Family (minor):	• CALGreen Building Code in accordance with CALGreen's minimum thresholds.	City Review
Multi-family (major): Renovations and/or additions with a Floor Area Ratio (FAR) increase ≥ 50% and at least 35,000 square feet, and that replace or substantially alter the HVAC system and at least two of the following: building envelope, hot water system and lighting system.	• GPR minimum 50 pts or • LEED Certified or • LEED EBOM Certified or • Alternate Reference Standard per Section 101.10.2	Third Party GPR or LEED Certification as applicable Alternate Reference Standard: See Section 101.10.2
Non-Residential		
Minor: Renovations and/or additions that do not meet the higher thresholds for "major renovations and additions" outlined as defined in (ii) below.	• CALGreen Building Code in accordance with CALGreen's minimum thresholds.	City Review
Major: Renovations and/or additions that comprise at least 35,000 square feet, and replace or substantially alter the HVAC system and two of the following: building envelope, hot water system, and lighting system.	• LEED Certified (applicable only to the area of renovation/ addition) or LEED EBOM Certified or • Alternate Reference Standard per Section 101.10.2	Third Party LEED Certification Alternate Reference Standard: See Section 101.10.2
Mixed-Use		
For new and renovation/addition projects with residential and non-residential components, the use shall comply by either: 1. Meeting the applicable requirements for each use; or 2. Meeting the applicable requirements for the use that comprises the majority of the project's square footage where uses are attached and/or combined in a building.		
Notes: *"Major" renovations and/or additions apply only to the area of the renovation/addition unless the LEED EBOM Certified option is selected.* *Chapter 5 of the California Green Building Standards Code (Cal Green Mandatory) requirements shall only be applied to elements included in the scope of a project, unless otherwise required by the California Green Building Standards Code.		

16.58.240 Alternate Green Building Standards.

Add Section 101.10.2 of the 2022 California Green Building Standards Code to read as follows:

101.10.2 Alternate Green Building Standards. The applicant may request to apply an alternate green building standard for a project in lieu of the minimum standards per Table 101.10. In making a determination in response to an application under this section, the Building Official may allow an alternate standard if he/she finds that the proposed alternative standard complies with all of the following:

A. Addresses a comprehensive scope of green building issues including energy efficiency, water efficiency, resource efficient materials, and healthy building practices;
B. Applies standards that are, when taken as a whole, as stringent as the GPR and LEED standards;
C. Includes a formalized certification process that incorporates third party verification; and
D. The project will advance the purposes of this Chapter.

16.58.250 Verification.

Amend Section 102.3 of the 2022 California Green Building Standards Code to read as follows:

102.3 Verification. Documentation of conformance for applicable green building measures shall be provided to the City of Cupertino. Verification that the project meets the applicable environmental standards occurs through either the Third-Party process or City Review per the requirements in Table 101.10. The following lists the verification requirements for Third Party verification, and alternative methods:

A. Third Party Certification. A project will be required to meet the Third-Party certification process if the City determines that the project meets or exceeds the applicable thresholds listed in Table 101.10. The applicant shall submit all of the following to the City, in addition to other application requirements, to assist the City in determining compliance with the green building requirements:

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1. **Planning Application.** A green building checklist that includes cross-references to appropriate locations in the construction documents for all prerequisites and selected points or credits that demonstrates that the proposed project meets the applicable minimum requirements.
2. **Building Permit.**
   a. Proof of project registration with administrating body of the applicable reference standard, and
   b. A green building checklist that includes cross-references to appropriate locations in the construction documents for all prerequisites and selected points or credits; that demonstrate that the proposed project meets the applicable minimum requirements, and
3. **Green Building Deposit**. The green building deposit in an amount that may be set from time to time by resolution of the City Council. The applicant may provide the deposit in the form of cash or in any other form that the City finds acceptable to meet the purposes of this Section. The full amount of the deposit shall be returned upon the certification document being provided per 102.3 (A)(4). If however, the project does not meet the requirements of this Chapter, as applied to the project, then the City shall retain the full amount of the deposit and shall use the deposit solely to advance the purposes of this Chapter.
4. **Time Limit**. Within 18 months of Final Occupancy - Provide certification document for LEED, GPR or alternate rating standard in a form accepted by the City per Table 101.10. The Building Official may grant a one-time 6-month extension.

16.58.260 Exemptions.

Added Section 102.3.1 of the 2022 California Green Building Standards Code to read as follows:

102.3.1 Exemptions. The Building Official shall determine the maximum feasible threshold of compliance reasonably achievable for the project. Projects that are exempted from the requirements of the California Green Building Standards Code as amended by the City of Cupertino shall meet the requirement in section A and at least one of the requirements in sections B-D:

A. Projects that demonstrate that it is not feasible for the project to fully meet the green building requirements and that the purposes of this chapter will have been

achieved to the maximum extent possible shall be exempted only for the specific rating system prerequisite that has been determined to be infeasible.

B. Projects that demonstrate compliance with this code but which will conflict with the Cupertino General Plan and/or Municipal Code Ordinance, such as those requiring historic preservation as determined by the Director of Community Development; or
C. Projects that demonstrate compliance with this code but which will conflict with the California Building Standards Code; or
D. Projects with atypical energy-related design requirements and/or patterns of use that make compliance with the thresholds of this code infeasible.

16.58.280 Definitions.

Amend Section 202 of the 2022 California Green Building Standards Code to add or amend the following definitions:

Affordable Housing. Residential buildings that entirely consist of units below market rate and whose rents or sales prices are governed by local agencies to be affordable based on area median income.

Decision maker. The person or entity with final approval authority over the underlying project.

Direct Current Fast Charging (DCFC). A parking space provided with electrical infrastructure that meets the following conditions:

A. A minimum of 48 kVa (480 volt, 100-ampere) capacity wiring.
B. Electric vehicle supply equipment (EVSE) located within three (3) feet of the parking space providing a minimum capacity of 80-ampere.

Green Building Checklist. A checklist, typically with prerequisites and credits and/or points that is developed by the administrators of green building certification systems and used to determine whether a development project can achieve certification.

Green Point Rated (GPR). A residential green building rating system developed by Build It Green. Projects can use any of the adopted GPR checklists that most appropriately apply to the project type proposed.

Leadership in Energy and Environmental Design (LEED). A green building rating system developed by the U.S. Green Building Council for residential and non-residential projects. Projects can use any of the adopted LEED checklists that most appropriately apply to the project type proposed.

Electric Vehicle Supply Equipment (EVSE). The conductors, including the ungrounded, grounded and equipment grounding conductors and the electric vehicle connectors, attachment plugs, and all other fittings, devices, power outlets, or apparatus installed specifically for the purpose of transferring energy between the premises wiring and the electric vehicle.

Level 2 EV Capable. A parking space provided with electrical infrastructure that meets the following requirements:

A. Conduit that links a listed electrical panel with sufficient capacity to a junction box or receptacle located within three (3) feet of the parking space.
B. The conduit shall be designed to accommodate at least 8.3 kVa (208/240 volt, 40-ampere) per parking space. Conduit shall have a minimum nominal trade size of 1 inch inside diameter and may be sized for multiple circuits as allowed by the California Electrical Code. Conduit shall be installed at a minimum in spaces that will be inaccessible after construction, either trenched underground or where penetrations to walls, floors, or other partitions would otherwise be required for future installation of branch circuits, and such additional elements deemed necessary by the Building Official. Construction documents shall indicate future completion of conduit from the panel to the parking space, via the installed inaccessible conduit.
C. The electrical panel shall reserve a space for a 40-ampere overcurrent protective device space(s) for EV charging, labeled in the panel directory as "EV CAPABLE."
D. Electrical load calculations shall demonstrate that the electrical panel service capacity and electrical system, including any on-site distribution transformer(s), have sufficient capacity to simultaneously charge all EVs at all required EV spaces at a minimum of 40 amperes.
E. The parking space shall contain signage with at least a 12" font adjacent to the parking space indicating the space is EV Capable.

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Level 1 EV Ready. A parking space that is served by a complete electric circuit with the following requirements:

A. A minimum of 2.2 kVa (110/120 volt, 20-ampere) capacity wiring.
B. A receptacle labeled "Electric Vehicle Outlet" or electric vehicle supply equipment located within three (3) feet of the parking space. If EVSE is provided the minimum capacity of the EVSE shall be 16-ampere.
C. Conduit oversized to accommodate future Level 2 EV Ready (208/240 volt, 40-ampere) at each parking space**.**

Level 2 EV Ready. A parking space that is served by a complete electric circuit with the following requirements:

A. A minimum of 8.3 kVa (208/240 volt, 40-ampere) capacity wiring.
B. A receptacle labeled "Electric Vehicle Outlet" or electric vehicle supply equipment located within three (3) feet of the parking space. If EVSE is provided the minimum capacity of the EVSE shall be 30-ampere.

Low Power Level 2 EV Ready. A parking space that is served by a complete electric circuit with the following requirements:

A. A minimum of 4.1 kVA (208/240 Volt, 20-ampere) capacity wiring.
B. A receptacle labeled "Electric Vehicle Outlet" or electric vehicle supply equipment located within three (3) feet of the parking space. If EVSE is provided the minimum capacity of the EVSE shall be 16-ampere.
C. Conduit oversized to accommodate future Level 2 EV Ready (208/240 volt, 40-ampere) at each parking space.

Low Power Level 2 Electric Vehicle (EV) Charging Receptacle. [HCD] A 208/240 Volt 20- ampere minimum branch circuit and a receptacle for use by an EV driver to charge their electric vehicle or hybrid electric vehicle.

Minimum Green Building Requirement. The minimum green building requirement that applies to a particular project, as listed in column 2 of Table 101.10.

Required Verification. The standards that correspond to the requirements of a particular green building rating system and project type, as listed in column 3 of

Table 101.10, for which verification procedures are fully set forth in Section 102.3.

Feasible. Capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

16.58.300 Compliance with Local Water - Efficient Landscape Ordinance - Residential.

Add Section 4.304.1.1 of the 2022 California Green Building Standards Code to read as follows:

4.304.1.1 Compliance with Local Water-Efficient Landscape Ordinance. Residential projects must comply with the City of Cupertino's Landscape Ordinance, pursuant to Chapter 14.15 of the Cupertino Municipal Code.

16.58.310 Compliance with Local Water - Efficient Landscape Ordinance - Non-Residential.

Add Section 5.304.1.1 of the 2022 California Green Building Standards Code to read as follows:

5.304.1.1 Compliance with Local Water-Efficient Landscape Ordinance. Non-residential projects must comply with the City of Cupertino's Landscape Ordinance, pursuant to Chapter 14.15 of the Cupertino Municipal Code.

16.58.400 Electric Vehicle (EV) Charging – Residential.

Amend Section 4.106.4 of the 2022 California Green Building Standards Code to read as follows:

4.106.4 Electric Vehicle (EV) Charging. Residential construction shall comply with Section 4.106.4.1 or 4.106.4.2, and 4.106.4.3, to facilitate future installation and use of EV chargers. Electric vehicle supply equipment (EVSE) shall be installed in accordance with the California Electrical Code, Article 625. For EVCS signs, refer to Caltrans Traffic Operations Policy Directive 13-01 (Zero Emission Vehicle Signs and

Pavement Markings) or its successor(s). Calculation for spaces shall be rounded up to the nearest whole number.

Exceptions:

1. On a case-by-case basis, where the local enforcing agency has determined EV charging and infrastructure are not feasible based upon one or more of the following conditions:
   1.1. Where there is no local utility power supply or the local utility is unable to supply adequate power.
   1.2. Where there is evidence suitable to the local enforcing agency substantiating that additional local utility infrastructure design requirements, directly related to the implementation of Section 4.106.4, may increase construction cost by an average of $4,500 per parking space for market rate housing or $400 per parking space for affordable housing. EV infrastructure shall be provided up to the level that would not exceed this cost for utility service.
2. Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU) without additional parking facilities and without electrical panel upgrade or new panel installation. Detached ADUs, attached ADUs, and JADUs without additional parking but with electrical panel upgrades or new panels must have reserved breakers and electrical capacity according to the requirements of 4.106.4.1.
3. Multifamily residential R-2 building projects that have approved entitlements before the code effective date.

4.106.4.1 One- and Two-Family Dwellings and Town-Houses with Private Garages.

4.106.4.1.1 New Construction. One parking space provided shall be a Level 2 EV Ready space. If a second parking space is provided, it shall be provided with a Level 1 EV Ready space.

4.106.4.1.2. Existing Building. Parking additions or electrical panel upgrades must have reserved breaker spaces and electrical capacity according to the requirements of 4.106.4.1.1.

4.106.4.2 Multifamily Dwellings with Residential Parking Facilities. Requirements apply to parking spaces that are assigned or leased to individual

dwelling units, as well as unassigned residential parking. Visitor or common area parking is not included.

4.106.4.2.1 New Construction. Forty percent (40%) of dwelling units with parking spaces shall be EVCS with Level 2 EV Ready. ALMS shall be permitted to reduce load when multiple vehicles are charging. Sixty percent (60%) of dwelling units with parking spaces shall be provided with at minimum a Level 1 EV Ready space. EV ready spaces and EVCS in multifamily developments shall comply with California Building Code, Chapter 11A, Section 1109A. EVCS shall comply with the accessibility provisions for EV chargers in the California Building Code, Chapter 11B.

Note: The total number of EV spaces should be one-hundred percent (100%) of dwelling units or one-hundred percent (100%) of parking spaces, whichever is less.

4.106.4.2.2 Existing Buildings.

1. When new parking facilities are added, or electrical systems or lighting of existing parking facilities are added or altered and the work requires a building permit, ten percent (10%) of the total number of parking spaces added or altered shall be EVCS. Any existing EV Capable spaces on the building property required by the locally adopted codes at the time of building permit shall be upgraded to a minimum of Level 1 EV Ready. Upgrades shall be required at currently designated vehicle parking spaces. Upgrades shall be required for remaining parking spaces after meeting the accessibility requirements of California Building Code Chapters 11A and 11B.

2. When new parking facilities are added and ALMS is installed, the ALMS system must be designed to deliver no less than 2.2 kVa (110/120 volt, 20-ampere).

4.106.4.3 Electric Vehicle Charging Stations (EVCS).

Electric vehicle charging stations required by Section 4.106.4.2 shall comply with Section 4.106.4.3.

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Exception: Electric vehicle charging stations serving public accommodations, public housing, motels, and hotels shall not be required to comply with this section. See California Building Code, Chapter 11B, for applicable requirements.

4.106.4.3.1 Location.

EVCS shall comply with at least one of the following options:

1. The charging space shall be located adjacent to an accessible parking space meeting the requirements of the California Building Code, Chapter 11A, to allow use of the EV charger from the accessible parking space.
2. The charging space shall be located on an accessible route, as defined in the California Building Code, Chapter 2, to the building.

   Exception: Electric vehicle charging stations designed and constructed in compliance with the California Building Code, Chapter 11B, are not required to comply with Section 4.106.4.3.1 and Section 4.106.4.3.2, Item 3.

4.106.4.3.2 Dimensions.

The charging spaces shall be designed to comply with the following:

1. The minimum length of each EV space shall be 18 feet (5486 mm).
2. The minimum width of each EV space shall be 9 feet (2743 mm).
3. One in every 25 charging spaces, but not less than one, shall also have an 8- foot (2438 mm) wide minimum aisle. A 5-foot (1524 mm) wide minimum aisle shall be permitted provided the minimum width of the EV space is 12 feet (3658 mm).

   a. Surface slope for this EV space and the aisle shall not exceed 1 unit vertical in 48 units horizontal (2.083 percent slope) in any direction.

      Exception: Where the City's Municipal or Zoning Code permits parking space dimensions that are less than the minimum requirements stated in this section 4.106.4.3.2, and the compliance

with which would be infeasible due to particular circumstances of a project, an exception may be granted while remaining in compliance with California Building Code Section Table 11B-228.3.2.1 and 11B-812, as applicable.

4.106.4.4 Direct Current Fast Charging Stations. One DCFC may be substituted for up to five (5) EVCS to meet the requirements of 4.106.4.1 and 4.106.4.2. Where ALMS serve DCFC stations, the power demand from the DCFC shall be prioritized above Level 1 and Level 2 spaces.

16.58.420 Electric Vehicle (EV) Charging – Non-Residential

Amend Section 5.106.5.3 of the 2022 California Green Building Standards Code to read as follows:

5.106.5.3 Electric Vehicle (EV) Charging. Construction to provide electric vehicle infrastructure and facilitate electric vehicle charging shall comply with Section 5.106.5.3.1 and shall be provided in accordance with regulations in the California Building Code and the California Electrical Code. Accessible EVCS shall be provided in accordance with the California Building Code Chapter 11B Section 11B-228.3. For EVCS signs, refer to Caltrans Traffic Operations Policy Directive 13-01 (Zero Emission Vehicle Signs and Pavement Markings) or its successor(s). Calculation for spaces shall be rounded up to the nearest whole number.

Exceptions:

1. On a case-by-case basis where the local enforcing agency has determined compliance with this section is not feasible based upon one of the following conditions:

   a. Where there is no local utility power supply.
   b. Where the local utility is unable to supply adequate power.
   c. Where there is evidence suitable to the local enforcement agency substantiating that additional local utility infrastructure design requirements, directly related to the implementation of Section 5.106.5.3, may increase construction cost by an average of $4,500 per parking space. EV infrastructure

shall be provided up to the level that would not exceed this cost for utility service.

2. Parking spaces accessible only by automated mechanical car parking systems are not required to comply with this code section.

5.106.5.3.1 Nonresidential Occupancy Class B Offices – Shared Parking Space.

5.106.5.3.1.1 New Construction. Twenty percent (20%) of parking spaces shall be EVCS with Level 2 EV Ready. ALMS shall be permitted to reduce load when multiple vehicles are charging. Thirty percent (30%) of parking spaces provided shall be Level 2 EV Capable.

5.106.5.3.1.2 Existing Buildings. When new parking facilities are added, or electrical systems or lighting of existing parking facilities are added or altered and the work requires a building permit, ten percent (10%) of the total number of parking spaces added or altered shall be EVCS with Level 2 EV Ready. Any existing EV Capable spaces on the building property required by the locally adopted codes at the time of building permit shall be upgraded to a minimum of Level 1 EV Ready. Upgrades shall be required at currently designated vehicle parking spaces. Upgrades shall be required for remaining parking spaces after meeting the accessibility requirements of California Building Code Chapters 11A and 11B.

5.106.5.3.2 Hotel and Motel Occupancies – Shared Parking Facilities.

5.106.5.3.2.1 New Construction. Five percent (5%) of parking spaces provided shall be EVCS with Level 2 EV Ready. ALMS shall be permitted to reduce load when multiple vehicles are charging. Twenty-five percent (25%) of parking spaces provided shall be Low Power Level 2 EV Ready space. Ten percent (10%) of parking spaces provided shall be Level 2 EV Capable.

5.106.5.3.2.2 Existing Buildings. When new parking facilities are added, or electrical systems or lighting of existing parking facilities are added or altered and the work requires a building permit, ten percent (10%) of the total number of parking spaces added or altered shall be EVCS with Level 2 EV Ready. Any existing EV Capable spaces on the building property required by

the locally adopted codes at the time of building permit shall be upgraded to a minimum of Level 1 EV Ready. Upgrades shall be required at currently designated vehicle parking spaces. Upgrades shall be required for remaining parking spaces after meeting the accessibility requirements of California Building Code Chapters 11A and 11B.

5.106.5.3.3 All Other Nonresidential Occupancies – Shared Parking Facilities.

5.106.5.3.3.1 New Construction. Ten percent (10%) of parking spaces provided shall be EVCS with Level 2 EV Ready. ALMS shall be permitted to reduce load when multiple vehicles are charging. Ten percent (10%) of parking spaces provided shall be Level 2 EV Capable.

5.106.5.3.3.2 Existing Buildings. When new parking facilities are added, or electrical systems or lighting of existing parking facilities are added or altered and the work requires a building permit, ten percent (10%) of the total number of parking spaces added or altered shall be EVCS with Level 2 EV Ready. Any existing EV Capable spaces on the building property required by the locally adopted codes at the time of building permit shall be upgraded to a minimum of Level 1 EV Ready. Upgrades shall be required at currently designated vehicle parking spaces. Upgrades shall be required for remaining parking spaces after meeting the accessibility requirements of California Building Code Chapters 11A and 11B.

5.106.5.3.4 Direct Current Fast Charging Stations. One DCFC may be substituted for up to five (5) EVCS to meet the requirements of 5.106.5.3.1, 5.106.5.3.2, and 5.106.5.3.3. Where ALMS serve DCFC stations, the power demand from the DCFC shall be prioritized above Level 1 and Level 2 spaces.

5.106.5.4 Electric Vehicle Charging Readiness: Medium-Duty and Heavy-Duty. Construction shall comply with Section 5.106.5.4.1 to facilitate future installation of electric vehicle supply equipment (EVSE). Construction for warehouses, grocery stores and retail stores with planned off-street loading spaces shall also comply with Section 5.106.5.4.1 for future installation of medium- and heavy-duty EVSE. Accessible EVCS shall be provided in accordance with the California Building Code Chapter 11B Section 11B-228.3. For

EVCS signs, refer to Caltrans Traffic Operations Policy Directive 13-01 (Zero Emission Vehicle Signs and Pavement Markings) or its successor(s).

Exceptions:

1. On a case-by-case basis where the local enforcing agency has determined compliance with this section is not feasible based upon one of the following conditions:

a. Where there is no local utility power supply.
b. Where the local utility is unable to supply adequate power.
c. Where there is evidence suitable to the local enforcing agency substantiating that additional local utility infrastructure design requirements, directly related to the implementation of Section 5.106.5.3, may increase construction cost by an average of $4,500 per parking space. EV infrastructure shall be provided up to the level that would not exceed this cost for utility service.

5.106.5.4.1 Warehouses, Grocery Stores and Retail Stores with Planned Off-Street Loading Spaces.

In order to avoid future demolition when adding EV supply and distribution equipment, spare raceway(s) or busway(s) and adequate capacity for transformer(s), service panel(s) or subpanel(s) shall be installed at the time of construction in accordance with the California Electrical Code. Construction plans and specifications shall include, but are not limited to, the following:

1. The transformer, main service equipment and subpanels shall meet the minimum power requirement in Table 5.106.5.4.1 to accommodate the dedicated branch circuits for the future installation of EVSE.
2. The construction documents shall indicate one or more location(s) convenient to the planned off-street loading space(s) reserved for medium- and heavy-duty EV charging cabinets and charging dispensers, and a pathway reserved for routing of conduit from the termination of the raceway(s) or busway(s) to the charging cabinet(s) and dispenser(s), as shown in Table 5.106.5.4.1.

3. Raceway(s) or busway(s) originating at a main service panel or a subpanel(s) serving the area where potential future medium- and heavy-duty EVSE will be located and shall terminate in close proximity to the potential future location of the charging equipment for medium- and heavy-duty vehicles.
4. The raceway(s) or busway(s) shall be of sufficient size to carry the minimum additional system load to the future location of the charging for medium- and heavy-duty EVs as shown in Table 5.106.5.4.1.

TABLE 5.106.5.4.1, Raceway Conduit and Panel Power Requirements for Medium-and-Heavy-Duty EVSE

Building type	Building Size (sq. ft.)	Number of Off-street loading spaces	Additional capacity Required (kVa) for Raceway & Busway and Transformer & Panel
Grocery	10,000 to 90,000	1 or 2	200
		3 or Greater	400
	Greater than 90,000	1 or Greater	400
Retail	10,000 to 135,000	1 or 2	200
		3 or Greater	400
	Greater than 135,000	1 or Greater	400
Warehouse	20,000 to 256,000	1 or 2	200
		3 or Greater	400
	Greater than 256,000	1 or Greater	400

[Title 16 – Chapter 16.60 – No Change]

CHAPTER 16.62: HISTORICAL BUILDING CODE

A. Except as otherwise provided in this chapter, the provisions of the 2022 California Historical Building Code and specified Appendices and each and all of the regulations, provisions, conditions and terms of the code is referred to as if fully set forth in this chapter, except such portions as are hereinafter deleted, modified or amended by this ordinance, and is by such adopted by reference.

B. One (1) copy of each volume of the code therefore is on file in the office of the Building Official pursuant to Health and Safety Code Section 18942 and are made available for public inspection.

CHAPTER 16.64: EXISTING BUILDING CODE

A. Except as otherwise provided in this chapter, the provisions of the 2022 California Existing Building Code and specified Appendices and each and all of the regulations, provisions, conditions and terms of the code is referred to as if fully set forth in this chapter, except such portions as are hereinafter deleted, modified or amended by this ordinance, and is by such adopted by reference.

B. One (1) copy of each volume of the code therefore is on file in the office of the Building Official pursuant to Health and Safety Code Section 18942 and are made available for public inspection.

CHAPTER 16.68: REFERENCED STANDARDS CODE

A. The provisions of the 2022 California Referenced Standards Code and specified Appendices and each and all of the regulations, provisions, conditions and terms of the code is referred to as if fully set forth in this chapter, except such portions as are hereinafter deleted, modified or amended by this ordinance, and is by such adopted by reference.

B. One (1) copy of each volume of the code therefore is on file in the office of the Building Official pursuant to Health and Safety Code Section 18942 and are made available for public inspection.

[Title 16 – Chapter 16.70 – No Change]
[Title 16 – Chapter 16.72 – No Change]
[Title 16 – Chapter 16.74 – No Change]
[Title 16 – Chapter 16.80 – No Change]

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