

<b>DOCKETED</b>	
<b>Docket Number:</b>	19-BSTD-06
<b>Project Title:</b>	Local Ordinances Exceeding the 2019 Energy Code
<b>TN #:</b>	232163-7
<b>Document Title:</b>	City of Cupertino - 2019 Ordinance No 19-2193 Cupertino Reach Code
<b>Description:</b>	Plain text of City of Cupertino Ordinance No. 19-2193
<b>Filer:</b>	Danuta Drozdowicz
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
<b>Submission Date:</b>	2/20/2020 7:31:31 PM
<b>Docketed Date:</b>	2/21/2020

## ORDINANCE NO. 19-2193

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO AMENDING CITY CODE CHAPTERS 16.54 AND 16.58 ADOPTING THE 2019 CALIFORNIA ENERGY CODE AND GREEN BUILDING STANDARDS CODE WITH CERTAIN EXCEPTIONS, DELETIONS, MODIFICATIONS, ADDITIONS AND AMENDMENTS.

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The City Council of the City of Cupertino finds that:

1. 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 amend the provisions of the 2019 California Energy Code (Part 6 of Title 24) and the 2019 California Green Building Standards Code (Part 11 of Title 24) with certain modifications and amendments to those provisions which are reasonably necessary because of local climatic, geological or topographical conditions. The City makes the amendments, additions and deletions described herein to these provisions to address these local conditions, and to reduce energy use and lower greenhouse gas emissions for the residents of Cupertino through building electrification, electric vehicle charging infrastructure, and additional green building measures.
2. The additions, deletions, and amendments hereinafter described are hereby adopted and are deemed reasonably necessary because of local climatic, geological, or topographical conditions pursuant to Government Code Sections 18941.5 and 17958.5. Express findings that these modifications to the Building Codes are reasonably necessary are hereby made and will be filed with the California Building Standards Commission in accordance with California Health and Safety Code Section 17958.7 before this ordinance takes effect.
3. The City Council finds that the additions, deletions, modifications and amendments made to the Energy Code as described herein are cost-effective in accordance with California Public Resources Code Section 25402.1(h)(2). The finding of cost-effectiveness is described in greater detail in the Staff Report and the accompanying analyses, and is primarily derived from the California Codes and Standards Reach Code Program, which has determined specific modifications to the 2019 State Energy Code for climate zone 4 that are cost-effective. The City Council also finds, pursuant to Public Resources Code Section 25402.1(h)(2), that the additions, deletions, modifications and amendments to the Energy Code as described herein will require the diminution of energy consumption levels permitted by the 2019 State Energy Code. The City Council's findings of cost-effectiveness and energy savings will be filed with the California Energy Commission pursuant to Title 24 Chapter 10-106 before this ordinance takes effect.
4. The City Council of the City of Cupertino held a duly noticed public hearing on December 17, 2019, and after considering all testimony and written materials provided in connection with that hearing introduced this ordinance and waived the reading thereof.

**NOW THEREFORE, THE COUNCIL OF THE 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 reoption 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.

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**INTRODUCED** at a regular meeting of the Cupertino City Council on December 17, 2019, and **ENACTED** at a regular meeting of the Cupertino City Council on January 21, 2020, by the following vote:

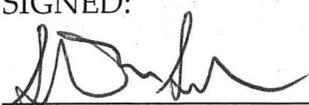
Vote            Members of the City Council

AYES:            Scharf, Paul, Chao, Sinks

NOES:            None

ABSENT:        Willey

ABSTAIN:       None

SIGNED: 	<u>1/28/2020</u>
Steven Scharf, Mayor City of Cupertino	Date
ATTEST: 	<u>2/6/20</u>
Kirsten Squarcia, City Clerk	Date
APPROVED AS TO FORM: 	<u>2/15/20</u>
Heather Minner, City Attorney	Date

## ATTACHMENT A

SECTION 1. 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

#### Section

- 16.54.010 Adoption of the 2019 California Energy Code.
- 16.54.040 Local Amendments.
- 16.54.100 Scope.
- 16.54.110 Definition and Rules of Construction.

#### **16.54.010 Adoption of the 2019 California Energy Code.**

- A. The provisions of the 2019 California Energy Code, Part 6 of Title 24 of the California Code of Regulations, and each and all of the regulations, provisions, conditions and terms of the code are 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. Notwithstanding the foregoing, the additions, deletions, and amendments hereinafter described shall not become operative until the California Energy Commission approval process is completed.
  - a. In accordance with California Health and Safety Code Sections 17958.7 and 18941.5, express findings that modifications to the Energy 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. Pursuant to California Public Resources Code Section 25402.1(h)(2), the City Council's findings that modifications to the Energy Code are cost-effective and will require the diminution of energy consumption levels permitted by the Energy Code are either already on file with the California Energy 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.

#### **16.54.040 Local Amendments.**

The following provisions of this Chapter shall constitute local amendments to the cross-referenced provisions of the 2019 California Energy Code and shall be deemed to amend the cross-referenced sections of said code with the respective provisions set forth in this Chapter.

#### **16.54.100 Scope.**

Amend Section 100.0(e)(2)(A) of the 2019 California Energy Code to read as follows:

- 2. Newly constructed buildings.
  - A. All newly constructed buildings. Sections 110.0 through 110.12 apply to all newly constructed buildings within the scope of Section 100.0(a). In addition, newly constructed buildings shall meet the requirements of Subsections B, C, D, or E, as applicable and shall be an All-Electric Building as defined in Section 100.1(b). For the purposes of All-Electric Building requirements, newly constructed buildings as

defined in Section 100.1 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: Attached Accessory Dwelling Units and Junior Accessory Dwelling Units shall be exempt from the all-electric building provisions of this section. For purposes of this exception, "Accessory Dwelling Unit" has the same definition as set out in Government Code Section 65852.2, and "Junior Accessory Dwelling Unit" has the same definition as set out in Government Code Section 65852.22.

Note 1: If natural gas appliances are used under Exception 1, 2, 3, and/or 4, 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.

Amend Section 100.0(e)(3)(A) of the 2019 California Energy Code to read as follows:

3. New Construction in existing buildings (additions, alterations and repairs).

**A. Nonresidential, high-rise residential, and hotel/motel buildings.** Section 141.0 applies to new construction in existing nonresidential, high-rise residential, and hotel/motel buildings. New construction in existing buildings includes additions, alterations and repairs. Section 141.0 specifies requirements that uniquely apply to additions, alterations or repairs to existing buildings, and specify which requirements in other sections also apply. For alterations that change the occupancy classification of the building, the requirements specific in Section 141.0 apply to the occupancy after alterations.

- i. Nonresidential tenant improvements are not subject to the all-electric building requirement for new construction in section 100.0(e)2A.

**16.54.110 Definitions and Rules of Construction.**

Amend Section 100.1(b) of the 2019 California Energy Code to add the following definition:

**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.

SECTION 2. Chapter 16.58 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 2019 California Green Building Standards Code.
- 16.58.015 Adoption of Appendix Chapters.
- 16.58.020 Local Amendments.
- 16.58.030 Title.
- 16.58.040 Scope.
- 16.58.100 Mandatory Requirements.
- 16.58.110 Project types.

16.58.120	Residential Projects.
16.58.130	Residential New Construction – Equal to or less than nine (9) homes
16.58.140	Residential New Construction – Greater than nine (9) homes or more
16.58.150	Major multi-family residential renovations/additions.
16.58.160	Non-residential new construction, small
16.58.170	Non-residential new construction, medium
16.58.180	Non-residential new construction, large
16.58.190	Non-residential renovations/additions, minor.
16.58.200	Non-residential renovations/additions, major.
16.58.210	Mixed-Use.
16.58.220	Table 101.10
16.58.230	Alternate green building standards.
16.58.240	Verification.
16.58.260	Exemptions.
16.58.280	Definitions.
16.58.290	Tenant Improvements.
16.58.300	Compliance with local water-efficient landscape ordinance- Residential.
16.58.310	Compliance with local water-efficient landscape ordinance- Non-Residential.
16.58.400	Electric vehicle (EV) charging - Residential.
16.58.420	Electric vehicle (EV) charging – Non-Residential.

**16.58.010 Adoption of the 2019 California Green Building Standards Code.**

- A. The provisions of the 2019 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.
  - a. 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 2019 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 2019 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 2019 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 2019 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 2019 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 2019 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 2019 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 2019 California Green Building Standards Code to read as follows:

**101.10.1.1 Residential projects** - as set for 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 2019 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 or more.**

Add Section 101.10.1.1.2 of the 2019 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 2019 California Green Building Standards Code to read as follows:

**101.10.1.1.3 Major multi-family residential renovations/additions** - as set forth in Table 101.10. 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 2019 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 2019 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 2019 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 2019 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 2019 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 Mixed-Use.**

Add Section 101.10.1.1.9 of the 2019 California Green Building Standards Code to read as follows:

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

**16.58.220 Table 101.10–Added.**

Add Table 101.10 of the 2019 California Green Building Standards Code to read as follows:

<i>Project Type</i>	<i>Minimum Green Building Requirement</i>	<i>Required Verification</i>
<b>A. NEW CONSTRUCTION</b>		
<b>Residential</b>		
<b>Single Family and Multi-Family homes equal to or less than 9 homes:</b>	<ul style="list-style-type: none"> <li>• CALGreen Building Code in accordance with CALGreen's minimum thresholds.</li> </ul>	City Review
<b>Single Family and Multi-Family homes greater than 9 homes:</b>	<ul style="list-style-type: none"> <li>• GPR certified at minimum 50 points or</li> <li>• LEED Silver or</li> <li>• Alternate Reference Standard per Section 101.10.2</li> </ul>	Third Party GPR or LEED certification as applicable Alternate Reference Standard: See Section 101.10.2
<b>Non-Residential</b>		
<b>Small, less than 25,000 SF:</b>	<ul style="list-style-type: none"> <li>• CALGreen Building Code * per Chapter 5 of the California Green Building Standards Code</li> </ul>	City Review

<b>Mid-size, from 25,000 to 50,000 SF:</b>	<ul style="list-style-type: none"> <li>• LEED Certified or</li> <li>• Alternate Reference Standard per Section 101.10.2</li> </ul>	Third Party LEED Certification Alternate Reference Standard: See Section 101.10.2
<b>Large, greater than 50,000 SF:</b>	<ul style="list-style-type: none"> <li>• LEED Silver or</li> <li>• Alternate Reference Standard per Section 101.10.2</li> </ul>	Third Party LEED Certification Alternate Reference Standard: See Section 101.10.2
<b>B. RENOVATIONS AND ADDITIONS</b>		
<b>Residential</b>		
<b>Single-family</b>	<ul style="list-style-type: none"> <li>• CALGreen Building Code in accordance with CALGreen's minimum thresholds.</li> </ul>	City Review
<b>Multi-family (minor):</b>	<ul style="list-style-type: none"> <li>• CALGreen Building Code in accordance with CALGreen's minimum thresholds.</li> </ul>	City Review
<b>Multi-family (major):</b> Renovations and/or additions with a Floor Area Ratio (FAR) increase $\geq 50\%$ 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.	<ul style="list-style-type: none"> <li>• GPR minimum 50 pts or</li> <li>• LEED Certified or</li> <li>• LEED EBOM Certified or</li> <li>• Alternate Reference Standard per Section 101.10.2</li> </ul>	Third Party GPR or LEED Certification as applicable Alternate Reference Standard: See Section 101.10.2
<b>Non-Residential</b>		
<b>Minor:</b> Renovations and/or additions that do not meet the higher thresholds for "major renovations and additions" outlined as defined in (ii) below.	<ul style="list-style-type: none"> <li>• CALGreen Building Code in accordance with CALGreen's minimum thresholds.</li> </ul>	City Review
<b>Major:</b> 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.	<ul style="list-style-type: none"> <li>• LEED Certified (applicable only to the area of renovation/addition) or</li> <li>• LEED EBOM Certified or</li> <li>• Alternate Reference Standard per Section 101.10.2</li> </ul>	Third Party LEED Certification Alternate Reference Standard: See Section 101.10.2
<b>Mixed-Use</b>		
<p>For new and renovation/addition projects with residential and non-residential components, the use shall comply by either:</p> <ol style="list-style-type: none"> <li>1. Meeting the applicable requirements for each use; or</li> <li>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.</li> </ol>		

**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.

**16.58.230 Alternate green building standards.**

Add Section 101.10.2 of the 2019 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.

**16.58.240 Verification.**

Amend Section 102.3 of the 2019 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:
  - a. 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.
  - b. Building Permit.
    - i. Proof of project registration with administrating body of the applicable reference standard, and
    - ii. 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
  - c. 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)(c). 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.

- d. 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 2019 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 2019 California Green Building Standards Code to add or amend the following definitions:

- A. "Building Envelope" means the separation between the interior and the exterior environments of a building in order to provide structural integrity, moisture control, temperature control, and air pressure control. The principal physical components of the building envelope include the foundation, roof, walls, and windows.
- B. "Decision maker" means the person or entity with final approval authority over the underlying project.
- C. "Green Building Checklist" means 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.
- D. "Green Point Rated (GPR)" means 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.
- E. "Leadership in Energy and Environmental Design (LEED)" means 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.

- F. "Minimum Green Building Requirement" means the minimum green building requirement that applies to a particular project, as listed in column 2 of Table 101.10.
- G. "Required Verification" means 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.
- H. "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.
- I. "EV Capable" means a parking space linked to a listed electrical panel with sufficient capacity to provide at least 110/120 volts and 20 amperes to the parking space. Raceways linking the electrical panel and parking space only need to be installed in spaces that will be inaccessible in the future, either trenched underground or where penetrations to walls, floors, or other partitions would otherwise be required for future installation of branch circuits. Raceways must be at least 1" in diameter and may be sized for multiple circuits as allowed by the California Electrical Code. The panel circuit directory shall identify the overcurrent protective device space(s) reserved for EV charging as "EV CAPABLE." Construction documents shall indicate future completion of raceway from the panel to the parking space, via the installed inaccessible raceways.
- J. "Level 1 EV Ready Circuit" means a parking space served by a complete electric circuit with a minimum of 110/120 volt, 20-ampere capacity including electrical panel capacity, overprotection device, a minimum 1" diameter raceway that may include multiple circuits as allowed by the California Electrical Code, wiring, and either a) a receptacle labelled "Electric Vehicle Outlet" with at least a ½" font adjacent to the parking space, or b) electric vehicle supply equipment (EVSE).
- K. "Level 2 EV Ready Circuit" means a parking space served by a complete electric circuit with 208/240 volt, 40-ampere capacity including electrical panel capacity, overprotection device, a minimum 1" diameter raceway that may include multiple circuits as allowed by the California Electrical Code, wiring, and either a) a receptacle labelled "Electric Vehicle Outlet" with at least a ½" font adjacent to the parking space, or b) electric vehicle supply equipment (EVSE) with a minimum output of 30 amperes.
- L. "Electric Vehicle Charging Station (EVCS)" means a parking space that includes installation of electric vehicle supply equipment (EVSE) with a minimum output of 30 amperes connected to a Level 2 EV Ready Circuit. EVCS installation may be used to satisfy a Level 2 EV Ready Circuit requirement.
- M. "Automatic Load Management Systems (ALMS)" means a control system which allows multiple Level 2 EV chargers to share a circuit or panel and automatically reduce power at each charger, providing the opportunity to reduce electrical infrastructure costs and/or provide demand response capability. ALMS is only allowed for Level 2 EVCS, Level 2 EV Ready, and Level 1 EV Ready Circuits. ALMS systems must be designed to deliver at least 1.4kW per charger. The connected amperage on-site shall not be lower than the required connected amperage per Part 11, 2019 California Green Building Code for the relevant building types.
- N. "Affordable Housing" means residential buildings that entirely consist of units below market rate and whose rents or sales prices are determined by local agencies to be affordable based on area median income.

#### **16.58.290 Tenant Improvements.**

Amend Section 303.1.1 of the 2019 California Green Building Standards Code to read as follows:

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

**16.58.300 Compliance with local water-efficient landscape ordinance- Residential.**

Add Section 4.304.1.1 of the 2019 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 2019 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 2019 California Green Building Standards Code to read as follows:

**4.106.4 Electric vehicle (EV) charging for new construction.** New construction shall comply with Sections 4.106.4.1 and 4.106.4.2 to facilitate future installation and use of EV chargers.

**Exceptions:**

1. Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU) without additional parking facilities.

Amend Section 4.106.4.1 of the 2019 California Green Building Standards Code to read as follows:

**4.106.4.1 New one- and two-family dwellings and town- houses with attached private garages.** For each dwelling unit, install a Level 2 EV Ready Circuit and Level 1 EV Ready Circuit.

**Exception:** For each dwelling unit with only one parking space, install a Level 2 EV Ready Circuit.

Amend Section 4.106.4.1.1 of the 2019 California Green Building Standards Code to read as follows:

**4.106.4.1.1 Identification.** The raceway termination location shall be permanently and visibly marked as "Level 2 EV-Ready".

Amend Section 4.106.4.2 of the 2019 California Green Building Standards Code to read as follows:

**4.106.4.2 New multifamily dwellings.** The following requirements apply to all new multifamily dwellings:

1. For multifamily buildings with less than or equal to 20 dwelling units, one parking space

- per dwelling unit with parking shall be provided with a Level 2 EV Ready Circuit.
2. When more than 20 multifamily dwelling units are constructed on a building site:
    - a. 25% of the dwelling units with parking space(s) shall be provided with at least one Level 2 EV Ready Circuit. Calculations for the required minimum number of Level 2 EV Ready spaces shall be rounded up to the nearest whole number.
    - b. In addition, each remaining dwelling unit with parking space(s) shall be provided with at least a Level 1 EV Ready Circuit.

**Exception:** For all multifamily Affordable Housing, 10% of dwelling units with parking space(s) shall be provided with at least one Level 2 EV Ready Circuit. Calculations for the required minimum number of Level 2 EV Ready spaces shall be rounded up to the nearest whole number. The remaining dwelling units with parking space(s) shall each be provided with at least a Level 1 EV Ready Circuit.

**Notes:**

1. ALMS may be installed to decrease electrical service and transformer costs associated with EV Charging Equipment subject to review of the authority having jurisdiction.
2. Installation of Level 2 EV Ready Circuits above the minimum number required level may offset the minimum number Level 1 EV Ready Circuits required on a 1:1 basis.
3. The requirements apply to multifamily buildings with parking spaces including: a) assigned or leased to individual dwelling units, and b) unassigned residential parking.
4. Local jurisdictions may consider allowing exceptions through their local process, on a case by case basis, if a building permit applicant provides documentation detailing that the increased cost of utility service or on-site transformer capacity would exceed an average of \$4,500 among parking spaces with Level 2 EV Ready Circuits and Level 1 EV Ready Circuits. If costs are found to exceed this level, the applicant shall provide EV infrastructure up to a level that would not exceed this cost for utility service or on-site transformer capacity.
5. In order to adhere to accessibility requirements in accordance with California Building Code Chapters 11A and/or 11B, it is recommended that all accessible parking spaces for covered newly constructed multifamily dwellings are provided with Level 1 or Level 2 EV Ready Circuits.

Amend Section 4.106.4.2.2 of the 2019 California Green Building Standards Code to read as follows:

**4.106.4.2.2 Electric vehicle charging space (EV space) dimensions.** Applicants shall size EV spaces as specified by the Building Official.

Delete Section 4.106.4.2.3 of the 2019 California Green Building Standards Code in its entirety.

Delete Section 4.106.4.2.4 of the 2019 California Green Building Standards Code in its entirety

Delete Section 4.106.4.2.5 of the 2019 California Green Building Standards Code in its entirety.

**16.58.420 Electric vehicle (EV) charging – Non-Residential.**

Amend Section 5.106.5.3 of the 2019 California Green Building Standards Code to read as follows:

**5.106.5.3 Electric vehicle (EV) charging.** New construction shall comply with Section 5.106.5.3.1 or Section 5.106.5.3.2 to facilitate future installation and use of EV chargers.

**Exception:**

1. Where there is no commercial power supply.
2. Nonresidential tenant improvements.

Amend Section 5.106.5.3.1 of the 2019 California Green Building Standards Code to read as follows:

**5.106.5.3.1 Office buildings:** In nonresidential new construction buildings designated primarily for office use with parking:

1. When 10 or more parking spaces are constructed, 20% of the available parking spaces on site shall be equipped with Level 2 EVCS;
2. An additional 10% shall be provided with at least Level 1 EV Ready Circuits; and
3. An additional 30% shall be at least EV Capable.

Calculations for the required minimum number of spaces equipped with Level 2 EVCS, Level 1 EV Ready spaces and EV Capable spaces shall all be rounded up to the nearest whole number

Construction plans and specifications shall demonstrate that all raceways shall be a minimum of 1" and sufficient for installation of EVCS at all required Level 1 EV Ready and EV Capable spaces; Electrical calculations shall substantiate the design of the electrical system to include the rating of equipment and any on-site distribution transformers, and have sufficient capacity to simultaneously charge EVs at all required EV spaces including Level 1 EV Ready and EV Capable spaces; and service panel or subpanel(s) shall have sufficient capacity to accommodate the required number of dedicated branch circuit(s) for the future installation of the EVSE.

**Notes:**

1. ALMS may be installed to increase the number of EV chargers or the amperage or voltage beyond the minimum requirements in this code. The option does not allow for installing less electrical panel capacity than would be required without ALMS.

Amend Section 5.106.5.3.2 of the 2019 California Green Building Standards Code to read as follows:

**5.106.5.3.2 Other nonresidential buildings:** In nonresidential new construction buildings that are not designated primarily for office use, such as retail or institutional uses:

1. When 10 or more parking spaces are constructed, 6% of the available parking spaces on site shall be equipped with Level 2 EVCS;
2. An additional 5% shall be at least Level 1 EV Ready.

Calculations for the required minimum number of spaces equipped with Level 2 EVCS and Level 2 EV Ready spaces shall be rounded up to the nearest whole number

**Exception:** Installation of each Direct Current Fast Charger with the capacity to provide at least 80 kW output may substitute for 6 Level 2 EVCS and 5 EV Ready spaces after a minimum of 6 Level 2 EVCS and 5 Level 1 EV Ready spaces are installed.

Amend Section 5.106.5.3.3 of the 2019 California Green Building Standards Code to read as follows:

**5.106.5.3.3 Clean Air Vehicle Parking Designation.** EVCS qualify as designated parking as described in Section 5.106.5.2 Designated parking for clean air vehicles.

**Notes:**

1. The California Department of Transportation adopts and publishes the California Manual on Uniform Traffic Control Devices (California MUTCD) to provide uniform standards and specifications for all official traffic control devices in California. Zero Emission Vehicle Signs and Pavement Markings can be found in the New Policies & Directives number 13-01. [www.dot.ca.gov/hq/traffops/policy/13-01.pdf](http://www.dot.ca.gov/hq/traffops/policy/13-01.pdf).
2. See Vehicle Code Section 22511 for EV charging spaces signage in off-street parking facilities and for use of EV charging spaces.
3. The Governor's Office of Planning and Research published a Zero-Emission Vehicle Community Readiness Guidebook which provides helpful information for local governments, residents and businesses. [www.opr.ca.gov/docs/ZEV\\_Guidebook.pdf](http://www.opr.ca.gov/docs/ZEV_Guidebook.pdf).
4. Section 11B-812 of the 2019 California Building Code requires that a facility providing EVCS for public and common use also provide one or more accessible EVCS as specified in Table 11B-228.3.2.1. Chapter 11B applies to certain facilities including, but not limited to, public accommodations and publicly funded housing (see section 1.9 of Part 2 of the California Building Code). Section 11B-812 requires that "Parking spaces, access aisles and vehicular routes serving them shall provide a vertical clearance of 98 inches (2489 mm) minimum." It also requires that parking spaces and access aisles meet maximum slope requirements of 1 unit vertical in 48 units horizontal (2.083 percent slope) in any direction at the time of new building construction or renovation. Section 11B-812.5 contains accessible route requirements.
5. It is encouraged that shared parking, EV Ready are designated as "EV preferred."

Delete Table 5.106.5.3.3 of the 2019 California Green Building Standards Code in its entirety.

Amend Section 5.106.5.3.4 of the 2019 California Green Building Standards Code to read as follows:

**5.106.5.3.4 [N] Identification.** The raceway termination location shall be permanently and visibly marked as "EV\_Ready".

Delete Section 5.106.5.3.5 of the 2019 California Green Building Standards Code in its entirety.

STATE OF CALIFORNIA )

COUNTY OF SANTA CLARA )

CITY OF CUPERTINO )

I, KIRSTEN SQUARCIA, City Clerk and ex-officio Clerk of the City Council of the City of Cupertino, California, do hereby certify the attached to be a true and correct copy of Ordinance No. 19-2193, which was enacted on January 21, 2020, and that it has been published or posted pursuant to law (G.C. 40806).

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 6<sup>TH</sup> day of ~~January~~ February 2020.



KIRSTEN SQUARCIA, City Clerk and Ex-officio Clerk  
of the City Council of the City of Cupertino, California