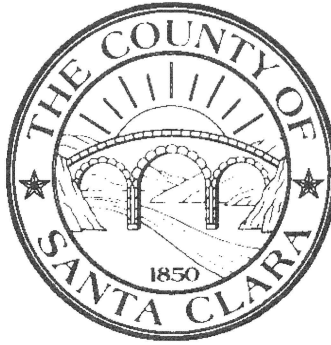


<b>DOCKETED</b>	
<b>Docket Number:</b>	22-BSTD-07
<b>Project Title:</b>	Local Ordinance Applications Exceeding the 2022 Energy Code
<b>TN #:</b>	261881
<b>Document Title:</b>	City of Cupertino Notice of Exemption Filing
<b>Description:</b>	Plain text of City of Cupertino CEQA notice of exemption
<b>Filer:</b>	Anushka Raut
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
<b>Submission Date:</b>	2/19/2025 4:34:35 PM
<b>Docketed Date:</b>	2/19/2025



Regina Alcomendras  
Santa Clara County  
Clerk-Recorder  
(408) 299-5688  
<https://www.clerkrecorder.org>

Receipt: 24-198151

Product	Name	Extended
CEQA	ENVIRONMENTAL FILING	\$50.00
	# Pages	23
	Document #	ENV25398
	Document Info:	CITY OF CUPERTINO
	Filing Type	E
<b>Total</b>		<b>\$50.00</b>
Tender (Check)		\$50.00
Check #	735793	
Paid By	City of Cupertino	

PLEASE KEEP FOR REFERENCE

County of Santa Clara  
Office of the County Clerk-Recorder  
Business Division



County Government Center  
70 West Hedding Street, E. Wing, 1<sup>st</sup> Floor  
San Jose, California 95110 (408) 299-5688

**CEQA DOCUMENT DECLARATION**

ENVIRONMENTAL FILING FEE RECEIPT

PLEASE COMPLETE THE FOLLOWING:

1. LEAD AGENCY: City of Cupertino
2. PROJECT TITLE: Ordinance Adopting Green Building Amendments to City of Cupertino Municipal Code Chapter 16.54 (Energy Code)
3. APPLICANT NAME: City of Cupertino PHONE: 408-777-7603
4. APPLICANT ADDRESS: 10300 Torre Ave Cupertino, Ca. 95014
5. PROJECT APPLICANT IS A: ☒ Local Public Agency ☐ School District ☐ Other Special District ☐ State Agency ☐ Private Entity
6. NOTICE TO BE POSTED FOR 30 DAYS.

**7. CLASSIFICATION OF ENVIRONMENTAL DOCUMENT**

**a. PROJECTS THAT ARE SUBJECT TO DFG FEES**

- |   |             |         |
|---|-------------|---------|
| <input type="checkbox"/> 1. <u>ENVIRONMENTAL IMPACT REPORT</u> (PUBLIC RESOURCES CODE §21152)                                   | \$ 3,343.25 | \$ 0.00 |
| <input type="checkbox"/> 2. <u>NEGATIVE DECLARATION</u> (PUBLIC RESOURCES CODE §21080(C))                                       | \$ 2,406.75 | \$ 0.00 |
| <input type="checkbox"/> 3. <u>APPLICATION FEE WATER DIVERSION</u> (STATE WATER RESOURCES CONTROL BOARD ONLY)                   | \$ 850.00   | \$ 0.00 |
| <input type="checkbox"/> 4. <u>PROJECTS SUBJECT TO CERTIFIED REGULATORY PROGRAMS</u>  | \$ 1,136.50 | \$ 0.00 |
| <input type="checkbox"/> 5. <u>COUNTY ADMINISTRATIVE FEE</u> (REQUIRED FOR a-1 THROUGH a-4 ABOVE)<br>Fish & Game Code §711.4(e) | \$ 50.00    | \$ 0.00 |

**b. PROJECTS THAT ARE EXEMPT FROM DFG FEES**

- |   |          |          |
|---|----------|----------|
| <input checked="" type="checkbox"/> 1. NOTICE OF EXEMPTION (\$50.00 COUNTY ADMINISTRATIVE FEE REQUIRED)   | \$ 50.00 | \$ 50.00 |
| <input type="checkbox"/> 2. A COMPLETED "CEQA FILING FEE NO EFFECT DETERMINATION FORM" FROM THE DEPARTMENT OF FISH & GAME, DOCUMENTING THE DFG'S DETERMINATION THAT THE PROJECT WILL HAVE NO EFFECT ON FISH, WILDLIFE AND HABITAT, OR AN OFFICIAL, DATED RECEIPT / PROOF OF PAYMENT SHOWING PREVIOUS PAYMENT OF THE DFG FILING FEE FOR THE *SAME PROJECT IS ATTACHED (\$50.00 COUNTY ADMINISTRATIVE FEE REQUIRED) |          |          |
| DOCUMENT TYPE: <input type="checkbox"/> ENVIRONMENTAL IMPACT REPORT <input type="checkbox"/> NEGATIVE DECLARATION   | \$ 50.00 | \$ 0.00  |

**c. NOTICES THAT ARE NOT SUBJECT TO DFG FEES OR COUNTY ADMINISTRATIVE FEES**

- |  |        |           |
|--|--------|-----------|
| <input type="checkbox"/> NOTICE OF PREPARATION <input type="checkbox"/> NOTICE OF INTENT | NO FEE | \$ NO FEE |
|--|--------|-----------|

8. OTHER: \_\_\_\_\_ FEE (IF APPLICABLE): \$ \_\_\_\_\_

9. TOTAL RECEIVED..... \$ 50.00

\*NOTE: "**SAME PROJECT**" MEANS NO CHANGES. IF THE DOCUMENT SUBMITTED IS NOT THE SAME (OTHER THAN DATES), A "NO EFFECT DETERMINATION" LETTER FROM THE DEPARTMENT OF FISH AND GAME FOR THE **SUBSEQUENT** FILING OR THE APPROPRIATE FEES ARE REQUIRED.

THIS FORM MUST BE COMPLETED AND ATTACHED TO THE FRONT OF ALL CEQA DOCUMENTS LISTED ABOVE (*INCLUDING COPIES*) SUBMITTED FOR FILING. WE WILL NEED AN ORIGINAL (WET SIGNATURE) AND TWO (2) COPIES. IF THERE ARE ATTACHMENTS, PLEASE PROVIDE THREE (3) SETS OF ATTACHMENTS FOR SUBMISSION. (*YOUR ORIGINAL WILL BE RETURNED TO YOU AT THE TIME OF FILING.*)

CHECKS FOR ALL FEES SHOULD BE MADE PAYABLE TO: SANTA CLARA COUNTY CLERK-RECORDER

PLEASE NOTE: FEES ARE ANNUALLY ADJUSTED (Fish & Game Code §711.4(b)); PLEASE CHECK WITH THIS OFFICE AND THE DEPARTMENT OF FISH AND GAME FOR THE LATEST FEE INFORMATION.

"... NO PROJECT SHALL BE OPERATIVE, VESTED, OR FINAL, NOR SHALL LOCAL GOVERNMENT PERMITS FOR THE PROJECT BE VALID, UNTIL THE FILING FEES REQUIRED PURSUANT TO THIS SECTION ARE PAID." Fish & Game Code §711.4(c)(3)

(Fees Effective 01-01-2020)



State of California - Department of Fish and Wildlife

**2024 ENVIRONMENTAL DOCUMENT FILING FEE**

**CASH RECEIPT**

DFW 753.5a (REV. 01/01/24) Previously DFG 753.5a

RECEIPT NUMBER:

ENV25398

STATE CLEARINGHOUSE NUMBER (If applicable)

**SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY.**

LEAD AGENCY

LEAD AGENCY EMAIL

DATE

CITY OF CUPERTINO

12/13/2024

COUNTY/STATE AGENCY OF FILING

DOCUMENT NUMBER

SANTA CLARA

PROJECT TITLE

ORDINANCE ADOPTING GREEN BUILDING AMENDMENTS TO CITY OF CUPERTINO MUNICIPAL CODE

PROJECT APPLICANT NAME

PROJECT APPLICANT EMAIL

PHONE NUMBER

URSULA SYROVA

(408) 777-7603

PROJECT APPLICANT ADDRESS

CITY

STATE

ZIP CODE

10300 TORRE AVE.

CUPERTINO

CA

95014

**PROJECT APPLICANT (Check appropriate box)**

☒ Local Public Agency ☐ School District ☐ Other Special District ☐ State Agency ☐ Private Entity

**CHECK APPLICABLE FEES:**

☐ Environmental Impact Report (EIR) \$4,051.25 \$ \_\_\_\_\_  
☐ Mitigated/Negative Declaration (MND)(ND) \$2,916.75 \$ \_\_\_\_\_  
☐ Certified Regulatory Program (CRP) document - payment due directly to CDFW \$1,377.25 \$ \_\_\_\_\_

☒ Exempt from fee

☒ Notice of Exemption (attach)

☐ CDFW No Effect Determination (attach)

☐ Fee previously paid (attach previously issued cash receipt copy)

☐ Water Right Application or Petition Fee (State Water Resources Control Board only) \$850.00 \$ \_\_\_\_\_

☒ County documentary handling fee \$ \_\_\_\_\_ \$50.00

☐ Other \$ \_\_\_\_\_

**PAYMENT METHOD:**

☐ Cash ☐ Credit ☒ Check ☐ Other

**TOTAL RECEIVED** \$ \_\_\_\_\_ \$50.00

SIGNATURE

AGENCY OF FILING PRINTED NAME AND TITLE

X

Patricia Camarena, Deputy County Clerk-Recorder





**SANTA CLARA COUNTY CLERK  
CEQA FILING COVER SHEET**

Santa Clara County - Clerk-Recorder Office  
State of California

**File Number: ENV25398**

ENVIRONMENTAL FILING

No. of Pages: 23

Total Fees: \$50.00

File Date: 12/13/2024

Expires: 01/12/2025

**REGINA ALCOMENDRAS, Clerk-Recorder**

By: Patricia Camarena, Deputy Clerk-Recorder

THIS SPACE FOR CLERK'S USE ONLY

Complete and attach this form to each CEQA Notice filed with the County Clerk

**TYPE OR PRINT CLEARLY**

**Check Document being Filed:**

- ☐ Environmental Impact Report (EIR)
- ☐ Filing Fee (new project)
- ☐ Previously Paid F&W (must attach F&W receipt and project titles must match)
- ☐ No Effect Determination (F&W letter must be attached)
- ☐ Mitigated Negative Declaration (MND) or Negative Declaration (ND)
- ☐ Filing Fee (new project)
- ☐ Previously Paid F&W (must attach F&W receipt and project titles must match)
- ☐ No Effect Determination (F&W letter must be attached)
- ☒ Notice of Exemption (NOE)
- ☐ Other (Please fill in type):

1. LEAD AGENCY: City of Cupertino
2. LEAD AGENCY EMAIL: environmental@cupertino.org
3. PROJECT TITLE: Ordinance Adopting Green Building Amendments to City of Cupertino Municipal Code Chapter 16.54 (Energy Code)
4. APPLICANT NAME: Ursula Syrova PHONE: 408-777-7603
5. APPLICANT EMAIL: ursulas@cupertino.gov
6. APPLICANT ADDRESS: 10300 Torre Ave. Cupertino, CA 95014
7. PROJECT APPLICANT IS A: ☒ Local Public Agency ☐ School District ☐ Other Special District ☐ State Agency ☐ Private Entity
8. NOTICE TO BE POSTED FOR 30 DAYS.

Filing fees are due at the time a Notice of Determination/Exemption is filed with our office. For more information on filing fees and No Effect Determinations, please refer to California Code of Regulations, Title 14, section 753.5.



## CITY ATTORNEY'S OFFICE

CITY HALL  
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255  
TELEPHONE: (408) 777-3403 • FAX: (408) 777-3366  
CUPERTINO.ORG

December 9, 2024

### FILING REQUESTED BY AND WHEN FILED RETURN TO:

Lead Agency: City of Cupertino

Contact Person: Chris Jensen, City Attorney, City of Cupertino

Area Code/Telephone/Extension: 408-777-3105

### NOTICE OF EXEMPTION

City of Cupertino

Environmental Coordination and Review

1. Project Name: Ordinance Adopting Green Building Amendments to City of Cupertino Municipal Code Chapter 16.54 (Energy Code)
2. Project Location: City of Cupertino
3. Project Description:

Pursuant to Public Resources Code (PRC) Section 25402.1(h)(2) and Section 10-106 of Title 24 of the California Code of Regulations, the Jurisdiction of the City of Cupertino has applied to the California Energy Commission for a determination that its locally adopted energy efficiency standard, enacted in Local Ordinance 24-2265 (the Ordinance), will require buildings to be designed to consume no more energy than permitted by the 2022 Building Energy Efficiency Standards (2022 Energy Standards) adopted by the Energy Commission. The Energy Commission's Building Standards are set forth in Title 24, Part 6 of the California Code of Regulations. This ordinance requires meeting a source energy margin target through the performance path. To do so, one must install decarbonization measures in mixed fuel buildings or build an all-electric building. . Consistent with PRC Section 25402.1(h)(2), the Energy Commission found that the Jurisdiction of City of Cupertino's Ordinance will require the diminution of energy consumption levels permitted by the 2022 Energy Standards.

4. Public Agency Approving Project: City of Cupertino City Council
5. Project Sponsor: City Attorney's Office
6. CEQA Exemption Status:

\_\_\_ Ministerial (Sec. 21080(b)(1); 15268):

\_\_\_ Declared Emergency (Sec. 21080(b)(3); 15269(a)):

\_\_\_ Emergency Project (Sec. 21080(b)(4); 15269(b)(c)):

X Categorical Exemption. State type and section number:

California Code of Regulations, Title 14, § 15061(b)(3).

California Code of Regulations, Title 14, § 15308.

\_\_\_ Statutory Exemption. State code number:

7. Reasons for Exemption:

The finding by the Energy Commission required by PRC Section 25402.1(h)(2), that Jurisdiction of City of Cupertino ordinance will require the diminution of energy consumption levels permitted by the 2022 Energy Standards, involves the comparison of the energy savings of the ordinance pursuant to an objective fixed standard, and does not require the exercise of judgment or deliberation on the part of the Energy Commission. It is therefore a ministerial act consistent with Section 15369 of Title 14 of the California Code of Regulations and is exempt from CEQA pursuant to Public Resources Code section 21080(b)(1) and section 15268 of Title 14 of the California Code of Regulations.

The Energy Commission also determined that the activity is covered by the general rule that California Environmental Quality Act (CEQA) applies only to projects which have the potential for causing a significant effect on the environment. (14 CCR § 15061(b)(3).) 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. The Energy Commission previously found that its adoption of the California Green Building Code was exempt from CEQA pursuant to Title 14, Section 15061(b)(3). Additionally, analysis indicates that the 2022 Title 24 Part 6 Energy code amendments are not expected to result in significant environmental impacts.

These standards are more protective of the environment than the state standards, and there are no reasonably foreseeable adverse impacts, and so there is no possibility that the activity in question may have a significant effect on the environment. As the lead agency, the Jurisdiction of City of Cupertino also stated in its application to the Energy Commission that this activity is exempt from CEQA under Section 15061(b)(3) and 15308 of Title 14 of the California Code of Regulations.



Ursula Syrova  
Environmental Programs and Sustainability Manager  
City of Cupertino  
408-777-7603  
ursulas@cupertino.gov

## ORDINANCE NO. 24 –2265

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO REPEALING MUNICIPAL CODE CHAPTER 16.32: LOCAL SUSTAINABILITY REQUIREMENTS FOR NEWLY CONSTRUCTED BUILDINGS, AND ADOPTING LOCAL AMENDMENTS TO CALIFORNIA ENERGY CODE

The City Council of the City of Cupertino finds that:

1. On November 1, 2022, the Cupertino City Council adopted Ordinance No. 22-2245, including Municipal Code Chapter 16.32: Local Sustainability Requirements for Newly Constructed Buildings, which, subject to certain exemptions, required all-electric construction in newly constructed buildings.
2. On January 2, 2024, following denial of *en banc* review, a panel of the U.S. Court of Appeals for the Ninth Circuit issued an amended opinion in *California Restaurant Association v. City of Berkeley* (2024) 89 F.4th 1094, holding that restrictions on new natural gas infrastructure enacted by the City of Berkeley in 2019 were preempted by Subchapter IIII of the federal Energy Policy and Conservation Act, 42 U.S.C. § 6291 *et seq.*
3. Notwithstanding the court's ruling in *California Restaurant Association v. City of Berkeley*, the Cupertino City Council reaffirms the policy stated in the City's Climate Action Plan 2.0, which states the City's goal to "[r]equire new residential and commercial development to be all-electric at time of construction." (CAP 2.0, Table ES-2, Policy BE-4.) The City Council wishes to amend the Municipal Code to advance the policy commitments stated in the Climate Action Plan, while maintaining consistency with federal law as interpreted by a Ninth Circuit Court of Appeals panel in *California Restaurant Association v. City of Berkeley*.
4. To that end, the City Council wishes to adopt local amendments to the California Building Energy Efficiency Standards, 2022 Edition, Title 24, Part 6 of the California Code of Regulations ("Energy Code").
5. The Energy Code, a part of the California Building Standards Code, implements minimum energy efficiency standards in buildings through mandatory requirements, prescriptive standards, and performances standards.

6. California Health and Safety Code section 17958 requires that local jurisdictions adopt building standards that are substantially the same as those adopted by the California Building Standards Commission and contained in the California Building Standards Code, subject to the ability to adopt local building standard amendments as described below.
7. California Health and Safety Code sections 17958.5, 17958.7, and 18941.5 provide that jurisdictions may make changes or modifications to the building standards contained in the California Building Standards based upon express findings that such changes or modifications are reasonably necessary because of local climatic, geological, or topographical conditions.
8. The Cupertino City Council finds that each of the amendments, additions, and deletions to the California Energy Code contained in this ordinance are reasonably necessary because of the local climatic, geological, or topographical conditions described in Section 1 of the Ordinance.
9. The Energy Code provides that local governmental agencies may adopt and enforce energy standards for newly constructed buildings and additions, alterations, and repairs to existing buildings provided the following two requirements are met prior to any enforcement of the standards: (1) “[a] determination that the standards are cost effective is adopted by the local agency at a public meeting and subsequently filed with the Energy Commission; and (2) “the Energy Commission finds that the standards will require buildings to be designed to consume less energy than permitted by Title 24, Part 6.” (24 Cal. Code Regs., Title 6, § 10-106.)

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

**SECTION 1: Findings.**

(a) Local Conditions. The City of Cupertino is located in Climate Zone 4 as established in the 2022 California Energy Code. Climate Zone 4 is inland of the coast but has some ocean influence which keeps temperatures from hitting more extreme highs and lows. The zone covers many microclimates from northern to southern parts of the state. The City experiences an annual average precipitation of approximately 26 inches per year. Ninety-five percent of precipitation falls during the months of November through April, leaving a dry period of approximately six months each year. Relative humidity remains moderate most of the time. The climate in Cupertino is characterized

by warm summer temperatures (average highs above 80 degrees Fahrenheit) and moderate winters (average highs of approximately 60 degrees Fahrenheit). Prevailing winds in the area come from the west. In August 2022, the City Council adopted the City's "Climate Action Plan 2.0," which, in addition to setting goals of reducing community-wide emissions by 50% below 2010 levels by 2030 and achieving community-wide carbon neutrality no later than 2040, includes a description of the impacts of anthropogenic climate change on the City of Cupertino. As documented in the City's Climate Action Plan 2.0, the continued emissions of greenhouse gases into the atmosphere subjects Cupertino to (1) adverse air quality impacts, exacerbated by local features such as a major highways; (2) extreme heat; (3) flooding from severe storms, particularly in the areas around Stevens Creek and Calabazas Creek; (4) wildfires and smoke, owing to the City's proximity to the Santa Cruz Mountains and the urban-wildland interface; (5) drought; and (6) sea level rise. The Climate Action Plan includes policies and regulations to increase the energy efficiency of newly constructed buildings because the City is vulnerable to the increase in global temperatures caused by the emission of greenhouse gases to the atmosphere. Local climatic geologic, and topographic conditions along with the greenhouse emissions generated from residential and nonresidential structures require exceeding the energy standards for building construction established in the 2022 California Buildings Standards Code. The local Energy Code Amendments adopted in this Ordinance will ensure that new buildings reduce their consumption of energy and avoid exacerbating the hazards posed by local climatic, geological, and topographical conditions.

(b) Cost Effectiveness and Energy Efficiency. The Cupertino City Council finds, based on evidence presented before the City Council and the recitals set forth above, which are incorporated by reference herein, that the local amendments to the Energy Code contained in this Ordinance are cost effective and will require buildings to be designed to consume less energy than permitted by the Energy Code.

**SECTION 2: Repeal and Adoption.**

(a) The Cupertino City Council hereby repeals Chapter 16.32 of the Cupertino Municipal Code (Local Sustainability Requirements for Newly Constructed Buildings) in its entirety

(b) The Cupertino City Council hereby amends Chapter 16.54 of the Municipal Code (Energy Code), as set forth in Attachment A, to adopt local amendments to the California Building Energy Efficiency Standards, 2022 Edition, Title 24, Part 6 of the California Code of Regulations.

**SECTION 3: 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 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 on September 17, 2024 and **ENACTED** at a regular meeting of the Cupertino City Council on October 1, 2024 by the following vote:

**Members of the City Council**

AYES:	Mohan, Fruen, Chao, Moore
NOES:	None
ABSENT:	Wei
ABSTAIN:	None

<p>SIGNED:</p> <p><u>Sheila Mohan</u></p> <p>Sheila Mohan, Mayor City of Cupertino</p>	<p><u>10/10/2024</u></p> <p>Date</p>
<p>ATTEST:</p> <p><u>Kirsten Squarcia</u></p> <p>Kirsten Squarcia, City Clerk</p>	<p><u>10/10/2024</u></p> <p>Date</p>
<p>APPROVED AS TO FORM:</p> <p><u>Christopher D. Jensen</u></p> <p>Christopher D. Jensen, City Attorney</p>	<p><u>Oct 3, 2024</u></p> <p>Date</p>



## Attachment A – Energy Code; Local Energy Code Amendments

### CHAPTER 16.54: ENERGY CODE

#### Section 16.54.010. Adoption of 2022 California 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 are referred to as if fully set forth in this chapter, and are by such reference adopted.

B. One (1) copy of the code therefor 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.

#### Section 16.54.020. Local Energy Code Amendments.

##### A. Amendments to Subchapter 1 (All Occupancies – General Provisions)

*Amend Section 100.1(b) of the 2022 California Energy Code to add the following definitions:*

**ELECTRIC HEATING APPLIANCE** is a device that produces heat energy to create a warm environment by the application of electric power to resistance elements, refrigerant compressors, or dissimilar material junctions, as defined in the California Mechanical Code.

**KITCHEN, INSTITUTIONAL COMMERCIAL** is a kitchen dedicated to a foodservice establishment that provides meals at institutions including schools, colleges and universities, hospitals, correctional facilities, private cafeterias, nursing homes, and other buildings or structures in which care or supervision is provided to occupants.

**KITCHEN, QUICK-SERVICE COMMERCIAL** is a kitchen dedicated to an establishment primarily engaged in providing fast food, fast casual, or limited services. Food and drink may be consumed on premises, taken out, or delivered to the customer's location.

**NET FREE AREA (NFA)** is the total unobstructed area of the air gaps between louver and grille slats in a vent through which air can pass. The narrowest distance between two slats, perpendicular to the surface of both slats is the air gap height. The narrowest width of the gap is the air gap width. The NFA is the air gap height multiplied by the air gap width multiplied by the total number of air gaps between slats in the vent.

##### B. Amendments to Subchapter 3 (Nonresidential, Hotel/Motel Occupancies, and Covered Processes – Mandatory Requirements)

*Amend Section 120.2 of the 2022 California Energy Code to read as follows:*

## SECTION 120.2

### REQUIRED CONTROLS FOR SPACE-CONDITIONING SYSTEMS

(a) – (k): Subsections 120.2(a) – (k) are adopted without modification.

(l) HVAC Hot Water Temperature. Zones that use hot water for space heating shall be designed for a hot water supply temperature of no greater than 130 °F.

*Amend Section 120.6 of the 2022 California Energy Code to read as follows:*

## SECTION 120.6

### REQUIRED CONTROLS FOR SPACE-CONDITIONING SYSTEMS

(a) – (j): Subsections 120.6(a) – (j) are adopted without modification.

(k) Mandatory requirements for commercial kitchens. Electric Readiness for Newly Constructed Commercial Kitchens shall meet the following requirements:

1. Each quick-service commercial kitchens and institutional commercial kitchens shall include a dedicated branch circuit wiring and outlet that would be accessible to cookline appliances and shall meet all of the following requirements:

a. The branch circuit conductors shall be rated at 50 amps minimum.

b. The electrical service shall have a minimum capacity of 800 connected amps.

2. The electrical service panel shall be sized to accommodate an additional either 208v or 240v 50-amp breaker.

EXCEPTION 1 to Section 120.6(k): healthcare facilities.

EXCEPTION 2 to Section 120.6(k): all-electric commercial kitchens.

### **C. Amendments to Subchapter 4 (Nonresidential and Hotel/Motel Occupancies—Mandatory Requirements for Lighting Systems and Equipment, and Electrical Power Distribution Systems)**

*Amend Section 130.0 of the 2022 California Energy Code to read as follows:*

## SECTION 130.0

### LIGHTING SYSTEMS AND EQUIPMENT, AND ELECTRICAL POWER DISTRIBUTIONS SYSTEMS—GENERAL

(a) The design and installation of all lighting systems and equipment in nonresidential and hotel/motel buildings, outdoor lighting, and electrical power distribution systems

within the scope of Section 100.0(a), shall comply with the applicable provisions of Sections 130.0 through ~~130.5~~130.6.

**NOTE:** The requirements of Sections 130.0 through ~~130.5~~130.6 apply to newly constructed buildings. Section 141.0 specifies which requirements of Sections 130.0 through ~~130.5~~130.6 also apply to additions and alterations to existing buildings.

(b) – (c): Subsections 130.0(b) – (c) are adopted without modification.

*Amend Subchapter 4 of the 2022 California Energy Code to add Section 130.6 to be numbered, entitled, and to read as follows:*

#### **SECTION 130.6**

#### **ELECTRIC READINESS REQUIREMENTS FOR SYSTEMS USING GAS OR PROPANE**

Where nonresidential systems using gas or propane are installed, the construction drawings shall indicate electrical infrastructure and physical space accommodating the future installation of an electric heating appliance in the following ways, as certified by a registered design professional or licensed electrical contractor.

(a) Branch circuit wiring, electrically isolated and designed to serve all electric heating appliances in accordance with manufacturer requirements and the California Electrical Code, including the appropriate voltage, phase, minimum amperage, and an electrical receptacle or junction box within five feet of the appliance that is accessible with no obstructions. Appropriately sized conduit may be installed in lieu of conductors; and

(b) Labeling of both ends of the unused conductors or conduit shall be with “For Future Electrical Appliance”; and

(c) Reserved circuit breakers in the electrical panel for each branch circuit, appropriately labeled (e.g. “Reserved for Future Electric Range”), and positioned on the opposite end of the panel supply conductor connection; and

(d) Connected subpanels, panelboards, switchboards, busbars, and transformers shall be sized to serve the future electric heating appliances. The electrical capacity requirements shall be adjusted for demand factors in accordance with the California Electric Code; and

(e) Physical space for future electric heating appliances, including equipment footprint, and if needed a pathway reserved for routing of ductwork to heat pump evaporator(s), shall be depicted on the construction drawings. The footprint necessary for future electric heating appliances may overlap with non-structural partitions and with the location of currently designed combustion equipment.

**D. Amendments to Subchapter 5 (Nonresidential and Hotel/Motel Occupancies—Performance and Prescriptive Approaches for Achieving Energy Efficiency)**

*Amend Section 140.0 of the 2022 California Energy Code to read as follows:*

**SECTION 140.0**

**PERFORMANCE AND PERSCRIPTIVE COMPLIANCE APPROACHES**

Nonresidential and hotel/motel buildings shall comply with all of the following:

- (a) The requirements of Sections 100.0 through 110.12 applicable to the building project (mandatory measures for all buildings).
- (b) The requirements of Sections 120.0 through 130.56 (mandatory measures for nonresidential and high-rise residential and hotel/motel buildings).
- (c) Either the performance compliance approach (energy budgets) specified in Section 140.1 or the prescriptive compliance approach specified in Section 140.2 for the Climate Zone in which the building will be located. Climate zones are shown in FIGURE 100.1-A.

**NOTE to Section 140.0(c):** The Commission periodically updates, publishes and makes available to interested persons and local enforcement agencies precise descriptions of the Climate Zones, which is available by zip code boundaries depicted in the Reference Joint Appendices along with a list of the communities in each zone.

**NOTE to Section 140.0:** The requirements of Sections 140.1 through 140.10 apply to newly constructed buildings. Section 141.0 specifies which requirements of Section 140.1 through 140.10 also apply to additions or alterations to existing buildings.

*Amend Section 140.1 of the 2022 California Energy Code to read as follows:*

**SECTION 140.1**

**PERFORMANCE APPROACH: ENERGY BUDGETS**

A building complies with the performance approach if provided that (1) the time-dependent valuation (TDV) energy budget calculated for the Proposed Design Building under Subsection (b) is no greater than the TDV energy budget calculated for the Standard Design Building under Subsection (a), and (2) the source energy budget calculated for the proposed design building under Subsection (b) has a source energy compliance margin, relative to the energy budget calculated for the standard design building under Subsection (a), of at least 10 percent for all nonresidential occupancies.

**EXCEPTION 1 to 140.1 item (2).** A source energy compliance margin of 0 percent or greater is required when nonresidential occupancies are designed with single zone space-conditioning systems complying with Section 140.4(a)2.

(a) – (c) Subsections 140.1 (a) – (c) are adopted without modification.

**E. Amendments to Subchapter 7 (Single-Family Residential Buildings—Mandatory Features and Devices)**

*Amend Section 150.0 of the 2022 California Energy Code to read as follows:*

**SECTION 150.0**

**MANDATORY DEVICES AND FEATURES**

Single-family residential buildings shall comply with the applicable requirements of Sections 150.0(a) through 150.0(v).

**NOTE:** The requirements of Sections 150.0 (a) through (v) apply to newly constructed buildings. Sections 150.2(a) and 150.2(b) specify which requirements of Sections 150.0(a) through 150.0(r) also apply to additions or alterations. The amendments to section 150.0(t) do not apply to additions or alterations.

(a) – (s): Subsections 150.0(a) – (s) are adopted without modification.

(t) **Heat pump space heater ready.** Systems using gas or propane furnace to serve individual dwelling units shall include the following:

1. A dedicated 240 volt branch circuit wiring shall be installed within 3 feet from the furnace and accessible to the furnace with no obstructions. The branch circuit conductors shall be rated at 30 amps minimum. The blank cover shall be identified as “240V ready.” All electrical components shall be installed in accordance with the California Electrical Code.

2. The main electrical service panel shall have a reserved space to allow for the installation of a double pole circuit breaker for a future heat pump space heater installation. The reserved space shall be permanently marked as “For Future 240V use.”

3. A designated exterior location for a future heat pump compressor unit with either a drain or natural drainage for condensate.

(u) – (v): Subsections 150.0(u) – (v) are adopted without modification.

**F. Amendments to Subchapter 8 (Performance and Prescriptive Compliance for Single-Family Residential Buildings)**

*Amend Section 150.1 of the 2022 California Energy Code to read as follows:*

## SECTION 150.1

### PERFORMANCE AND PERSCRIPTIVE COMPLIANCE APPROACHES FOR SINGLE-FAMILY RESIDENTIAL BUILDINGS

(a): Subsection 150.1(a) is adopted without modification

(b) **Performance Standards.** A building complies with the performance standards if the energy consumption calculated for the proposed design building is no greater than the energy budget calculated for the standard design building using Commission-certified compliance software as specified by the Alternative Calculation Methods Approval Manual, as specified in sub-sections 1, 2 and 3 below.

1. Newly Constructed Buildings. The Energy Budget for newly constructed buildings is expressed in terms of the Energy Design Ratings, which are based on source energy and time-dependent valuation (TDV) energy. The Energy Design Rating 1 (EDR1) is based on source energy. The Energy Design Rating 2 (EDR2) is based on TDV energy and has two components, the Energy Efficiency Design Rating, and the Solar Electric Generation and Demand Flexibility Design Rating. The total Energy Design Rating shall account for both the Energy Efficiency Design Rating and the Solar Electric Generation and Demand Flexibility Design Rating. The proposed building shall separately comply with the Source Energy Design Rating, Energy Efficiency Design Rating and the Total Energy Design Rating. A building complies with the performance approach if the TDV energy budget calculated for the proposed design building is no greater than the TDV energy budget calculated for the Standard Design Building AND Source Energy compliance margin of at least nine, relative to the Source Energy Design Rating 1 calculated for the Standard Design building.

**EXCEPTION 1 to Section 150.1(b)1.** A community shared solar electric generation system, or other renewable electric generation system, and/or community shared battery storage system, which provides dedicated power, utility energy reduction credits, or payments for energy bill reductions, to the permitted building and is approved by the Energy Commission as specified in Title 24, Part 1, Section 10-115, may offset part or all of the solar electric generation system Energy Design Rating required to comply with the Standards, as calculated according to methods established by the Commission in the Residential ACM Reference Manual.

**EXCEPTION 2 to Section 150.1(b)1.** A newly constructed building with a conditioned floor area less than 1,500 square feet shall achieve a Source Energy compliance margin of four or greater, relative to the Source Energy Design Rating 1 calculated for the Standard Design building.

**EXCEPTION 3 to Section 150.1(b)1.** If a newly constructed building with a conditioned floor area less than 625 square feet demonstrates that due to conditions specific to the project it is technically infeasible to achieve compliance, the Building Official may reduce the compliance margin to between 0 and 4.

(b)(2) – (3): Subsections 150.1(b)2 and (b)3 are adopted without modification.

(c): Subsection 150.1(c) is adopted without modification

**G. Amendments to Subchapter 10 (Multifamily Buildings – Mandatory Requirements)**

*Amend Section 160.4 of the 2022 California Energy Code to read as follows:*

**SECTION 160.4**

**MANDATORY REQUIREMENTS FOR WATER-HEATING SYSTEMS**

~~(a)Reserved. Systems using gas or propane water heaters to serve individual dwelling units shall include the following components:~~

~~1.— A dedicated 125-volt, 20-amp electrical receptacle that is connected to the electric panel with a 120/240-volt 3-conductor, 10-AWG copper branch circuit, within 3 feet from the water heater and accessible to the water heater with no obstructions. In addition, all of the following:~~

~~A.— Both ends of the unused conductor shall be labeled with the word “spare” and be electrically isolated; and~~

~~B.— A reserved single-pole circuit breaker space in the electrical panel adjacent to the circuit breaker for the branch circuit in A above and labeled with the words “Future 240V Use”; and~~

~~2.— A Category III or IV vent, or a Type B vent with straight pipe between the outside termination and the space where the water heater is installed; and~~

~~3.— A condensate drain that is no more than 2 inches higher than the base of the installed water heater, and allows natural draining without pump assistance; and~~

~~4.— A gas supply line with a capacity of at least 200,000 Btu/hr.~~

(b) – (f): Subsections 160.4(b) – (f) are adopted without modification.

*Amend Section 160.9 of the 2022 California Energy Code to read as follows:*

**SECTION 160.9**

**MANDATORY REQUIREMENTS FOR ELECTRIC READY BUILDINGS**



(a) – (c): Subsections 160.9(a) – (c) are adopted without modification.

(d) Individual Heat Pump Water Heater Ready. Systems using gas or propane water heaters to serve individual dwelling units shall include the following components and shall meet the requirements of Section 160.9(f):

1. A dedicated 125 volt, 20 amp electrical receptacle that is connected to the electric panel with a 120/240 volt 3 conductor, copper branch circuit rated to 30 amps, within 3 feet from the water heater and accessible to the water heater with no obstructions. In addition, all of the following:

A. Both ends of the unused conductor shall be labeled with the word “spare” and be electrically isolated; and

B. A reserved single pole circuit breaker space in the electrical panel adjacent to the circuit breaker for the branch circuit in A above and labeled with the words “Future 240V Use”.

2. A condensate drain that is no more than 2 inches higher than the base of the installed water heater, and allows natural draining without pump assistance.

3. The construction drawings shall indicate the location of the future heat pump water heater. The reserved location shall have minimum interior dimensions of 39”x39”x96”.

4. A ventilation method meeting one of the following:

A. The designed space reserved for the future heat pump water heater shall have a minimum volume of 700 cubic feet; or

B. The designed space reserved for the future heat pump water heater shall vent to a communicating space in the same pressure boundary via permanent openings with a minimum total net free area of 250 square inches so that the total combined volume connected via permanent openings is 700 cu. ft. or larger. The permanent openings shall be:

i. Fully louvered doors with fixed louvers consisting of a single layer of fixed flat slats; or

ii. Two permanent fixed openings, consisting of a single layer of fixed flat slat louvers or grilles, one commencing within 12 inches from the top of the enclosure and one commencing within 12 inches from the bottom of the enclosure.



C. The designed space reserved for the future heat pump water heater shall include two 8" capped ducts, venting to the building exterior:

- i. All ducts, connections and building penetrations shall be sealed.
- ii. Exhaust air ducts and all ducts which cross pressure boundaries shall be insulated to a minimum insulation level of R-6.
- iii. Airflow from termination points shall be diverted away from each other.

(e) Central Heat Pump Water Heater Electric Ready. Central water heating systems using gas or propane to serve multiple dwelling units shall include the following:

1. The system input capacity of the gas or propane water heating system shall be determined as the sum of the input gas or propane capacity of all water heating devices associated with each gas or propane water heating system.

2. Space reserved shall include:

A. Heat Pump. The minimum space reserved shall include space for service clearances and air flow clearances and shall meet one of the following:

- i. If the system input capacity of the gas water heating system is less than 200,000 BTU per hour, the minimum space reserved for the heat pump shall be 2.0 square feet per input 10,000 BTU per hour of the gas or propane water heating system, and the minimum linear dimension of the space reserved shall be 48 linear inches.
- ii. If the system input capacity of the gas water heating system is greater than or equal to 200,000 BTU per hour, the minimum space reserved for the heat pump shall be 3.6 square feet per input 10,000 BTU per hour of the gas or propane water heating system, and the minimum linear dimension of the space reserved shall be 84 linear inches.
- iii. The space reserved shall be the space required for a heat pump water heater system that meets the total building hot water demand as calculated and documented by the responsible person associated with the project.

B. Tanks. The minimum space reserved shall include space for service clearances and shall meet one of the following:

- i. If the system input capacity of the gas water heating system is less

than 200,000 BTU per hour, the minimum space reserved for the storage and temperature maintenance tanks shall be 4.4 square feet per input 10,000 BTU per hour of the gas or propane water heating system.

- ii. If the system input capacity of the gas water heating system is greater than or equal to 200,000 BTU per hour, the minimum physical space reserved for the storage and temperature maintenance tanks shall be 3.1 square feet per input 10,000 BTU per hour of the gas or propane water heating system.
- iii. The space reserved shall be the space required for a heat pump water heater system that meets the total building hot water demand as calculated and documented by the responsible person associated with the project.

3. Ventilation shall be provided by meeting one of the following:

A. Physical space reserved for the heat pump shall be located outside, or  
B. A pathway shall be reserved for future routing of supply and exhaust air via ductwork from the reserved heat pump location to an appropriate outdoor location. Penetrations through the building envelope for louvers and ducts shall be planned and identified for future use. The reserved pathway and penetrations through the building envelope shall be sized to meet one of the following:

- i. If the system input capacity of the gas water heating system is less than 200,000 BTU per hour, the minimum air flow rate shall be 70 CFM per input 10,000 BTU per hour of the gas or propane water heating system and the total external static pressure drop of ductwork and louvers shall not exceed 0.17 inch when the future heat pump water heater is installed.
- ii. If the system input capacity of the gas water heating system is greater than or equal to 200,000 BTU per hour, the minimum air flow rate shall be 420 CFM per input 10,000 BTU per hour of the gas or propane water heating system and the total external static pressure drop of ductwork and louvers shall not exceed 0.17 inch when the future heat pump water heater is installed.
- iii. The reserved pathway and penetrations shall be sized to serve a heat pump water heater system that meets the total building hot water demand as calculated and documented by the responsible

person associated with the project.

4. Condensate drainage piping. An approved receptacle that is sized in accordance with the California Plumbing Code to receive the condensate drainage shall be installed within 3 feet of the reserved heat pump location, or piping shall be installed from within 3 feet of the reserved heat pump location to an approved discharge location that is sized in accordance with the California Plumbing Code, and meets one of the following:

A. If the system input capacity of the gas water heating system is less than 200,000 BTU per hour, condensate drainage shall be sized for 0.2 tons of refrigeration capacity per input 10,000 BTU per hour.

B. If the system input capacity of the gas water heating system is greater than or equal to 200,000 BTU per hour, condensate drainage shall be sized for 0.7 tons of refrigeration capacity per input 10,000 BTU per hour.

C. Condensate drainage shall be sized to serve a heat pump water heater system that meets the total building hot water demand as calculated and documented by the responsible person associated with the project.

5. Electrical.

A. Physical space shall be reserved on the bus system of the main switchboard or on the bus system of a distribution board to serve the future heat pump water heater system including the heat pump and temperature maintenance tanks. In addition, the physical space reserved shall be capable of providing adequate power to the future heat pump water heater as follows:

i. Heat Pump. For the Heat Pump, the physical space reserved shall comply with one of the following:

A. If the system input capacity of the gas water heating system is less than 200,000 BTU per hour, provide 0.1 kVA per input 10,000 BTU per hour.

B. If the system input capacity of the gas water heating system is greater than or equal to 200,000 BTU per hour, provide 1.1 kVA per input 10,000 BTU per hour.

C. The physical space reserved supplies sufficient electrical power required to power a heat pump water heater system that meets the total building hot water demand as calculated and documented by the responsible person associated with

the project.

ii. Temperature Maintenance Tank. For the Temperature Maintenance Tank, the physical space reserved shall comply with one of the following:

A. If the system input capacity of the gas water heating system is less than 200,000 BTU per hour, provide 1.0 kVA per input 10,000 BTU per hour.

B. If the system input capacity of the gas water heating system is greater than or equal to 200,000 BTU per hour, provide 0.6 kVA per input 10,000 BTU per hour.

iii. The physical space reserved supplies sufficient electrical power required to power a heat pump water heater system that meets the total building hot water demand as calculated and documented by the responsible person associated with the project.

(f) The building electrical system shall be sized to meet the future electric requirements of the electric ready equipment specified in sections 160.9 a – e. To meet this requirement the building main service conduit, the electrical system to the point specified in each subsection, and any on-site distribution transformers shall have sufficient capacity to supply full rated amperage at each electric ready appliance in accordance with the California Electric Code.

#### **H. Amendments to Subchapter 11 (Multifamily Buildings—Performance and Prescriptive Compliance Approaches)**

*Amend Section 170.1 of the 2022 California Energy Code to read as follows:*

##### **SECTION 170.1**

##### **PERFORMANCE APPROACH**

A building complies with the performance approach if the TDV energy budget calculated for the proposed design building under Subsection (b) is no greater than the TDV energy budget calculated for the standard design building under Subsection (a). Additionally, (1) the energy budget, expressed in terms of source energy, of a newly constructed low-rise multifamily building (three habitable stories or less) shall be at least 9 percent lower than that of the standard design building; and (2) newly Constructed high-rise multifamily buildings (greater than four habitable stories) shall be at least 1 percent lower than that of the standard design building.

(a) – (d): Subsections 170.1(a) – (d) are adopted without modification.

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. 24-2265 which was enacted on October 1, 2024, 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 10th day of October 2024.

*Kirsten Squarcia*

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

# ORDINANCE 24-2265 - Repealing Municipal Code Chapter 16.32 Local Sustainability Requirements for Newly Construction Buildings, and Adopting Local Amendments to California Energy Code


Final Audit Report

2024-10-03


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