

**DOCKETED**

<b>Docket Number:</b>	22-BSTD-07
<b>Project Title:</b>	Local Ordinance Applications Exceeding the 2022 Energy Code
<b>TN #:</b>	248489-2
<b>Document Title:</b>	City of Menlo Park - 2022 Staff Report First Reading
<b>Description:</b>	Plain text of the first reading of Menlo Park's staff report
<b>Filer:</b>	Danuta Drozdowicz
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
<b>Submission Date:</b>	1/20/2023 7:15:18 PM
<b>Docketed Date:</b>	1/23/2023



## STAFF REPORT

**City Council**

**Meeting Date:**

**11/1/2022**

**Staff Report Number:**

**22-210-CC**

**Regular Business:**

**Introduction and First Reading of an ordinance adopting the 2022 Building Standards Code to include amending Title 12 [Buildings and Construction] of the Menlo Park Municipal Code to adopt local amendments to the California Building Standards Code, and discussion regarding proposed revisions to Fire Code by Menlo Park Fire Protection District**

### Recommendation

Staff recommends that the City Council:

1. Introduce by title only and waive first reading of an ordinance, Ordinance of the City Council of the City of Menlo Park amending Title 12 [Buildings and Construction] of the Menlo Park Municipal Code to adopt Title 24, California Code of Regulations, 2022 Building Standards Code and Local Amendments to the 2022 California Building Standards Code, adding requirements for pools under construction, and amending flood damage prevention requirements; and
2. Review proposed revisions to California Fire Code to be adopted by Menlo Park Fire Protection District, and provide direction to staff.

### Policy Issues

Every three years, the State of California Building Standards Commission adopts a revised Building Standards Code, Title 24 of the California Code of Regulations. The Building Standards Code includes the Building Code, Residential Code, Electrical Code, Mechanical Code, Plumbing Code, Energy Code, Historical Building Code, Fire Code, Existing Building Code and Green Building Standards Code. Cities and counties across the state can also adopt local amendments and reach codes pursuant to various provisions in state law. The adoption of the proposed local amendments to the State Building Standards Code and City's Municipal Code generally support local City goals and policies. The proposed ordinance would implement local amendments to the building code. The City Council declared a climate emergency (Resolution No. 6535) committing to accelerating actions to address climate change at a local level and adopted a 2030 Climate Action Plan (CAP) with the bold goal to be carbon neutral (zero emissions) by 2030.

### Background

To promote uniform building standards, state law requires all cities and counties to adopt and enforce the California Building Standards Code, Title 24 California Code of Regulations, which is updated every three years by the California Building Standards Commission. Upon adoption of every new code cycle, local jurisdictions are required to review the new codes and decide whether to readopt any local amendments. As

a result, the City must amend Title 12 of the Municipal Code every three years to adopt the new versions of the Building Standards Code, as well as readopt any local amendments that the City wishes to continue to enforce during this code cycle.

#### Process for adopting local amendments to Building Standards Code

The California Building Standards Code prescribes the minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all buildings, structures and certain equipment.

The Building Standards Commission adopted and published the 2022 Building Standards Code July 1, 2022, and it will go into effect statewide January 1, 2023. The State provides a six-month window between publication and effective date to allow cities and counties to review the model codes and determine whether to adopt any local amendments. A City may adopt local amendments to the State codes if the following two criteria are met:

1. The local modifications must be substantially equivalent to, or more stringent than, building standards published in the California Building Standards Code; and
2. The local jurisdiction is required to make specific or express findings that such changes are reasonably necessary because of local geological, climatic or topographic conditions.

For amendments to be effective, the local governing body must make the necessary findings, approve an ordinance adopting the amendments, and file a copy of the express findings and the local ordinance with the California Building Standards Commission.

Additionally, the City of Menlo Park may adopt increased energy efficiency standards beyond those prescribed by the California Energy Commission in the Energy Code and Green Building Standards Code, upon finding that the increased energy efficiency requirements will be cost effective. Such energy efficiency requirements must first be reviewed by the California Energy Commission before going into effect.

#### Timing of adoption of local amendments

The State Building Standards Code automatically go into effect January 1, 2023 without any action of the City and would be enforced by the building division. Local amendments to the building standards code can be approved by the City Council at any time during a triennial code cycle. However, the standard practice is to have these local amendments approved before the effective date of the new building standards code to allow for a smooth transition and ensure that local amendments that the City desires to enforce do not lapse. Staff is asking the City Council to introduce the attached ordinance making amendments to the Building Code, Residential Code, Electrical Code, Mechanical Code, Plumbing Code, Energy Code, Historical Building Code, Existing Building Code and Green Building Standards Code.

#### *Fire Code amendments*

As Menlo Park does not have its own fire department, the Menlo Park Fire Protection District (Fire District) takes the lead in adopting any local amendments to the California Fire Code. Under state law, the Fire District has authority to adopt local amendments to the California Fire Code by adopting its own ordinance, and its modifications will go into effect within Menlo Park as long as they are ratified by the City. The Fire District is currently in the process of adopting an ordinance making such modifications to the 2022 California Fire Code, which are being previewed in this staff report for the City Council (Attachment B.) Once the Fire District adopts its ordinance, staff will then present a resolution to the City Council ratifying the Fire District's ordinance so that it may go into effect in Menlo Park, and designating the Fire District as the primary entity for enforcement of the Fire Code as amended. Information on the anticipated amendments to the Fire Code are also being presented in this report.

## Analysis

### Proposed local amendments to California Building Standards Code

The recommended local amendments are described below. In addition, staff has carried forward many of the local amendments made during the last building code cycle. The complete set of local amendments are contained in Attachment A.

The administrative sections Chapter 1, Division 1, of the California Residential and Building State Codes address critical elements of enforcement such as the requirements for permits, minimum submittal documents, inspections, and authorizes the building division of the local jurisdiction to collect fees and issue stop work orders. Staff is recommending adoption of local amendments to clarify the kinds of projects subject to building permit requirements. Staff is requiring building permit requirements for platforms, walks and driveways more than 12 inches above grade, where the state law would only require permits for works 30 inches above grade. Additionally, staff is requiring building permits for all fences except for wooden fences under seven feet high. These local amendments have been adopted in the past triennial cycle.

Additionally, plumbing code 808.2 allows the use of single pass or once through with clean running water used exclusively as a cooling medium in an appliance, device or apparatus. Single-pass or once-through cooling systems provide significant water waste in these systems water is circulated once through a piece of equipment and is then disposed down the drain. The recommendation is for single pass or once-through systems be prohibited. This local amendment has been adopted in the past triennial cycle.

### Proposed sustainability Reach Codes

In recent years, the term reach code has been used to describe a local government's ability to exceed state building code regulations to support or implement its environmental goals, such as a CAP, through the building permit process. Menlo Park has demonstrated leadership in adopting reach codes over the last few building code cycles by requiring all new buildings to be all-electric with very few exceptions and increased electric vehicle charging requirements.

Menlo Park requirements still exceed the 2022 state code requirements. Staff recommends re-adopting Menlo Park's requirements to remain effective on and after January 1, 2023. In addition, minor modifications to Menlo Park's current requirements are proposed and are considered feasible, and in some instances decrease construction costs for electric vehicle (EV) charging.

The proposed modifications and additions include the following, and are described in greater detail in the October 18 informational report (Attachment D):

- Readopt the current Menlo Park all-electric buildings requirements (including exceptions); applies only to new buildings (not existing buildings.)
- Readopt current Menlo Park photovoltaic requirements for newly constructed commercial buildings (nonresidential), and make the finding that the measure remains cost effective based on the cost effectiveness analysis provided in 2019 (Attachment C.)
- Include a new measure that prohibits electric buildings from being converted to mixed fuel buildings that use natural gas (applies to residential and commercial buildings.)

- Adopt the Bay Area Reach Code (BARC) Initiative<sup>1</sup> EV charging recommendations for new multifamily permits as they closely mirror Menlo Park's current EV charging requirements, and can reduce construction costs using a combination of approaches that help "right size" EV charging needs for new multifamily developments.
- Adopt Tier 1 table A5.106.5.3.1 California Green Building Standards (CALGreen) EV charging requirements for new nonresidential (commercial) permits as it closely mirrors Menlo Park's current EV charging requirements and provides consistency with the state's method of EV charging requirements.
- Readopt Menlo Park's current EV charging requirements for existing commercial (nonresidential) addition and alteration building permit projects.

#### Proposed other amendments to Municipal Codes

Staff recommends a new section 12.36.060 to require protective measures for pools during the course of construction, in line with the Swimming Pool Safety Act, Health and Safety Code sections 115920 through 115929, to provide a barrier to occupants of a building and the public. This is also in line with the new Appendix AX that was added to the 2022 California Residential Code and required to be enforced by the City.

Staff has also made clerical corrections to sections 12.32.050. Staff also added provisions for floodproofing and breakaway walls in the Chapter 12.42, aligning code requirements with FEMA standards and ASCE 24.

#### Overview of Fire District Local Amendments to Fire Code

With the 2022 CA Fire Code and proposed amendments, the following items are being modified that help bring alignment with San Mateo County Fire Chiefs policies and operational procedures. This impacts Emergency Responder Radio Communications and fire suppression operations for large and multistory buildings.

- (Chapter 4) Emergency Planning for Fire Watch personnel, Public Safety for gatherings and crowd managers is added and has remained consistent with the past nine years. This is added to provide guidance and safety measures for large gatherings and allow business to remain open without any temporary impairment of life safety systems.
- (Chapter 5) Address identification remains unchanged in modification to the CFC so that emergency responders and the public can clearly see addresses for emergency identification.
- [Chapter 5 (new add)] A fire control room is added to be consistent with many fire agencies in San Mateo County. This is requiring new buildings or change of use occupancies to have a fire control room so that all controls and functions are located in one area for quick and efficient fire suppression information and functions for life safety operations.
- (Chapter 5) Emergency Responder Radio Coverage shall be designed and installed per San Mateo County Fire Chiefs Policy 500 to maintain system integrity throughout the County.
- (Chapter 9) Fire sprinkler modifications remain unchanged for over 30 years. It has provided a high level of fire protection within the Fire District and allows building owner flexibility in tenant options without expensive cost modifications during tenant changes. Residential fire sprinklers remain unchanged from agreed upon thresholds with City of Menlo Park City Council.
- (Chapter 12) Electrical disconnects are added and described to allow for proper shutdown of electrical for firefighter and occupant safety during emergency operations.

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<sup>1</sup> Peninsula Clean Energy (PCE), Silicon Valley Clean Energy (SVCE), East Bay Community Energy (EBCE), Alameda County, Santa Clara County and the San Mateo County Office of Sustainability (OOS) joined together to reduce greenhouse gas (GHG) emissions within their service territories by developing forward-thinking building and transportation electrification reach codes recommendations.

- (Appendix B) Water Table sets threshold minimum to match many County thresholds within the State for built out communities to aid in water availability for mitigation of conflagration.

#### Next steps

State law requires two City Council actions, a first reading and a second reading, to amend a city's municipal code. The second reading is anticipated to take place November 15, 2022 — under state law, adoption of codes by reference, such as adoption of the new 2022 Building Standards Code, requires that a public hearing be conducted for the second reading. Additionally, staff anticipate bringing a resolution ratifying the Fire District's ordinance on or after November 15, 2022.

#### Items of note

Building code adoption for the 2022 code cycle goes into effect January 1, 2023. In order to minimize any impacts by these new code changes, we are encouraging applicants to submit their complete Building pre-application package no later than 5:30 p.m. December 15, 2022. Submitting by December 15 will allow sufficient time to complete the process that results in successful conversion to a building permit by December 31, 2022. Completed applications that are submitted after January 1, 2023 will be subject to the new 2022 Building Standards Code.

#### **Impact on City Resources**

The adoption of the current State codes and proposed local amendments will not result in any direct costs to the City. Public informational materials, such as City webpages and/or handouts, will need to be updated to reflect minor modifications.

#### **Environmental Review**

This action is not a project within the meaning of the California Environmental Quality Act (CEQA) Guidelines §15061(b)(3) as it will not result in any direct or indirect physical change in the environment.

#### **Public Notice**

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting and posting a notice at the City Hall front counter.

#### **Attachments**

- A. Ordinance amending Title 12
- B. Menlo Fire Protection District Ordinance No. 50-2022
- C. Menlo Fire Protection District Excel summary table
- D. Cost effectiveness study
- E. Hyperlink – October 18, 2022 Staff Report #22-206-CC recommending sustainable reach codes for inclusion in 2022 Building Standards code: [beta.menlopark.org/files/sharedassets/public/agendas-and-minutes/city-council/2022-meetings/agendas/20221018-city-council-agenda-packet.pdf#page=236](https://beta.menlopark.org/files/sharedassets/public/agendas-and-minutes/city-council/2022-meetings/agendas/20221018-city-council-agenda-packet.pdf#page=236)

Report prepared by:

Sergio Rudin, Assistant City Attorney

Chuck Andrews, Assistant Community Development Director

Staff Report #: 22-210-CC

Rebecca Lucky, Sustainability Manager

Reviewed by:

Deanna Chow, Assistant Community Development Director