

REGULAR

NUMBER: 65.147

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTERS 1, 3, 3.5, 4, 5, 6, 7, 10, 13, 14, 150, AND 170 OF TITLE II OF THE MILPITAS MUNICIPAL CODE RELATING TO CODE ADMINISTRATION; ADOPTING BY REFERENCE THE 2019 CALIFORNIA BUILDING CODE, 2019 CALIFORNIA RESIDENTIAL CODE, 2018 INTERNATIONAL PROPERTY MAINTENANCE CODE, 2019 CALIFORNIA MECHANICAL CODE, 2019 CALIFORNIA ELECTRICAL CODE, 2019 CALIFORNIA PLUMBING CODE, 2018 INTERNATIONAL SWIMMING POOL AND SPA CODE, 2019 CALIFORNIA EXISTING BUILDING CODE, AND 2019 CALIFORNIA HISTORICAL BUILDING CODE, WITH AMENDMENTS; AND AMENDING REGULATIONS PERTAINING TO GRADING, EXCAVATION , PAVING, AND EROSION CONTROL, AND GAS SHUT-OFF DEVICES

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of _____, 2019, upon motion by _____, and was adopted (second reading) by the City Council at its meeting of _____, upon motion by _____. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Rich Tran, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

RECITALS:

WHEREAS, the California Building Standards Commission has adopted and published an updated Title 24 of the California Code of Regulations, also referred to as the 2019 California Building Standards Code, that will become effective statewide on January 1, 2020; and

WHEREAS, California Health and Safety Code Sections 17958, 17958.5, 17958.7 and 18941.5 establish the authority for a city to adopt and make local amendments and modifications to the building standards in the California Building Standards Code to establish more restrictive building standards than those contained in the California Building Standards Code; and

WHEREAS, California Health and Safety Code Sections 17958, 17958.5, 17958.7 and 18941.5 permit a city to make such local amendments and modifications as the city determines are reasonably necessary because of local climatic, geological or topographical conditions; and

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

WHEREAS, the City of Milpitas has reviewed and intends to adopt the 2019 California Building Standards Code; and

WHEREAS, the City Council wishes to amend portions of the California Building Standards Code to better address local conditions and makes express findings that such amendments are reasonably necessary because of local climatic, geological or topographical conditions as set forth in this Ordinance.

NOW, THEREFORE, the City Council of the City of Milpitas does ordain as follows:

SECTION 1. RECORD AND BASIS FOR ACTION

The City Council has duly considered the full record before it, which may include but is not limited to the staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the City Council. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council hereby finds and determines that this Ordinance has been assessed in accordance with the California Environmental Quality Act (Cal. Pub. Res. Code, § 21000 et seq.) (“CEQA”) and the State CEQA Guidelines (14 Cal. Code Regs. § 15000 et seq.) and is categorically exempt from CEQA under CEQA Guidelines, § 15061(b)(3), which exempts from CEQA any project 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. Adoption of the proposed Ordinance would not be an activity with potential to cause significant effect on the environment because the changes made to the California Building Standards Code within are enacted to mitigate the threats posed to public peace, health and safety from earthquakes, storms, floods, high winds and fire, and therefore is exempt from CEQA. Therefore, it can be seen with certainty that there is no possibility that the Ordinance in question may have a significant effect on the environment; accordingly, the Ordinance is categorically exempt from CEQA.

SECTION 3. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE II

Chapters 1, 3, 3.5, 4, 5, 6, 7, 10, 13, 14, 150, and 170 of Title II of the Milpitas Municipal Code are hereby amended with the text below to read as follows:

Chapter 1 CODE ADMINISTRATION

Chapter 1 of Title II of the Milpitas Municipal Code is hereby repealed in its entirety and replaced with the text below to read as follows:

Section 1 Purpose

II-1-1.01

The purpose of this Chapter is to provide for the administration and enforcement of codes and municipal ordinances within the Milpitas Municipal Code, Title II. For each code adopted by reference in Title II, the administration chapter of each code provides for the code's scope and administration and is hereby adopted, unless specific sections for the administration and enforcement of the codes are provided under this Chapter. Collectively with the sections in this Chapter, they provide for the administration and enforcement of the codes and municipal ordinances in Title II.

Section 2 Definitions

II-1-2.01

For the administration of Title II, the following definition applies:

HILLSIDE as used in this Title is defined as all property east of North Park Victoria Drive, Evans Road, and Piedmont Road.

Section 3 Unsafe Buildings, Structures or Building Service Equipment

II-1-3.01 Scope

All building or structures regulated by this Title that are structurally inadequate or have inadequate means of egress, or inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life, for the purpose of this section shall be deemed in unsafe condition.

Building service equipment regulated by such codes, which constitute a fire, electrical or health hazard, or an unsanitary condition, or is otherwise dangerous to human life, for the purpose of this section, shall be deemed unsafe. Any use of buildings, structures or building service equipment constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment, for the purpose of this section, shall be deemed an unsafe use.

Parapet walls, cornices, spires, towers, tanks, statuary and other appendages or structural members which are supported by, attached to, or a part of a building and which are in deteriorated condition or otherwise unable to sustain the design loads which are specified in the Building Code are hereby designated as unsafe building appendages.

Unsafe buildings, structures or appendages and building service equipment are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the latest edition of the Uniform Code for the Abatement of Dangerous Buildings or such alternate procedures as may be adopted by this jurisdiction. As an alternative, the Building Official or other employee or official of this jurisdiction as designated by the governing body may institute any other appropriate action as permitted by law to prevent, restrain, correct or abate the violation.

II-1-3.02 Notice of Correction or Abatement of Unsafe Structures

If an inspection shows a building or structure or portion thereof to be "Unsafe" as defined herein, the Building Official shall give the owner of said building or structure written notice stating the defects thereof. Said notice may order the correction or abatement thereof by demolition, closing or repair within ninety days of the date said notice is given or such additional time as the Building Official may allow. If, in the opinion of the Building Official, such conditions can be corrected or abated by repair, the notice shall state the repair required. Notice hereunder may also be given to any mortgagee or beneficiary under any deed of trust of record.

II-1-3.03 Posting Notice of Hazardous Building

Every building which the Building Official causes to be vacated because of an immediate danger or hazard may be posted at each entrance with a notice which states: "Do Not Enter: Unsafe to Occupy: It is a misdemeanor to occupy the building or remove or deface the notice. Building Safety and Housing Department, City of Milpitas." Such notice may remain posted until the required repairs, improvements, demolition or removal are completed. Such notice shall not be removed without written permission of the Building Official, and all persons shall forthwith vacate said building and no

person shall enter the building except for the purpose of making the required repairs, improvements, demolition or removal of the building.

II-1-3.04 Authority to Disconnect Utilities

The Building Official or his/her authorized representative shall have the authority to disconnect any utility service or energy supplied to the building, structure or building service equipment therein regulated by this Title in case of emergency where necessary to eliminate an immediate hazard to life or property. The Building Official shall whenever possible notify the serving utility, the owner and occupant of the building, structure or building service equipment of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner and occupant of the building, structure or building service equipment, in writing, of such disconnection immediately thereafter.

This Title shall not be construed to relieve from or lessen the responsibility of any person owning, operating or controlling any building or structure for any damages to persons or property caused by defects, nor shall the City of Milpitas be held to have assumed any such liability by reasons of the inspections authorized by this Title.

II-1-3.05 Authority to Condemn Building Service Equipment

Whenever the Building Official ascertains that any building service equipment regulated in the codes has become hazardous to life, health, or property, or has become unsanitary, he/she shall order in writing that such equipment either be removed or restored to a safe or sanitary condition, as appropriate. The written notice itself shall fix a time limit for compliance with such order. Defective building service equipment shall not be maintained after receiving such notice.

When such equipment or installation is to be disconnected, a written notice of such disconnection and causes therefore will be given within 24 hours to the serving utility, the owner and occupant of such building, structure or premises.

When any building service equipment is maintained in violation of the codes and in violation of any notice issued pursuant to the provisions of this section, the Building Official shall institute any appropriate action as permitted by law to prevent, restrain, correct or abate the violation.

II-1-3.06 Connection After Order to Disconnect

No person shall make connections from any energy, fuel or power supply nor supply energy or fuel to any building service equipment which has been disconnected or ordered to be disconnected by the Building Official or the use of which has been ordered to be discontinued by the Building Official until the Building Official authorizes the reconnection and use of such equipment.

II-1-3.07 Withholding Permit

No Building or Occupancy Permit shall be issued for any building or structure unless and until:

1. All conditions imposed thereon or in connection with any development or subdivision of which it is a part (and which affect said building or structure) by the Milpitas Planning Commission or Milpitas City Council have been complied with;

2. Said building or structure and any development or subdivision of which it is a part shall be in compliance with all ordinances and statutes affecting said building or structure, development or subdivision.

II-1-3.08 Liability

Without limitation to the generality of any provision of the Milpitas Municipal Code, the duties imposed by this Title upon the Building Official, or his/her authorized representatives are discretionary and not mandatory. Neither said Official nor his/her representatives shall render himself/herself personally liable for any damage that may accrue to persons or property as a result of any act or by reason of any act or omission in the discharge of his/her duties.

The City of Milpitas, its officers or employees shall not be held to have assumed any liability by reason of the inspections authorized by such codes or approvals issued under such codes.

This Title shall not be construed to relieve or lessen the responsibility of any person owning, operating or controlling any building or structure to any damages to persons or property caused by defects, nor shall the City of Milpitas be held as assuming any liability by reasons of the inspections authorized by this Title.

II-1-3.09 Hearing

Any aggrieved person may request an informal hearing before the Building Official or his/her designee, with respect to any action taken or to be taken under the provisions of this section. Said request shall be in writing and said hearing shall be held within 2 working days of receipt of the request provided a request for a hearing shall not stay the operation of the Building Official's order unless the Building Official shall so order.

Section 4 Appeals

II-1-4.01

Appeals may be had under this Chapter, pursuant to the provisions of Section 5 of Chapter 20 of Title I – Standard Procedures Chapter of the Milpitas Municipal Code. An appeal shall stay all proceedings in furtherance of the act or decision appealed unless the Building Official whose act is appealed shall certify in writing that a stay would in his opinion cause peril to life or property. Said certificate shall contain a detailed statement of the facts out of which said peril arises and of the reasons for said opinion.

Section 5 Violations

II-1-5.01 Unlawful Acts

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building structure, building service equipment, or cause or permit the same to be done in violation of this Title.

II-1-5.02 Notice of Code Violation

Whenever the Building Official has knowledge of a violation of the provisions of any Chapter of Title II of the Milpitas Municipal Code or any of the codes or appendices incorporated in any of the Chapters of said Title, or the provisions of Chapter 300, Title V of the Milpitas Municipal Code, or of the California Fire Code, California Fire Code Appendices and California Fire Code Standards adopted therein, or the State Housing Law in California Health and Safety Code, the Building Official may issue a Notice of Intent to record a Notice of Code Violation to the owner of the land where the violation is located. Notice shall be given to the owner at the address shown on the latest equalized assessment roll of the County of Santa Clara, California, or as is known to the City of Milpitas by posting on the property itself and by personal service or by certified mail, postage prepaid, and with return receipt requested.

Notice by mail may also be given (but shall not be required to be given) to any other owner of any interest in said land as may be known to the Building Official. The notice shall state that within 20 days of the date of notice, the owner may request a hearing with the Building Official to present evidence that a violation does not exist.

II-1-5.03 Recordation of Violation

Following a hearing and after consideration of the evidence presented, if the Building Official determines that a code violation in fact exists, the Building Official shall give notice either by personal service or by certified mail, postage prepaid and return receipt requested, to the owner at the address shown on the latest equalized assessment roll of the County of Santa Clara, California, or as is known to the City of Milpitas that if the violation is not corrected within 45 days of the date of personal service or mailing, or within such time as deemed appropriate by the Building Official, the Building Official shall record a Notice of Code Violation in the Office of the County Recorder of Santa Clara County, California. Unless an appeal from the Building Official's decision is filed, the Building Official shall record said notice of code violation after 45 days.

If no hearing was requested under Section II-1-5.02 and the violation continues, the Building Official shall inform the owner by personal service or certified mail that a notice of code violation shall be recorded with the County Recorder or Santa Clara County in 45 days. Unless presented with proof of complete correction, the Building Official shall record said notice of code violation after 45 days.

II-1-5.04 Civil Penalties

Any person who intentionally, accidentally or negligently violates any provision of this Title, any written authority of the Building Official or the City Manager or his or her duly authorized agents and representatives, or any provision of any permit issued pursuant to this Code may be civilly liable to the City in the sum of not less than \$100.00 but not to exceed \$1,000 per day for each day in which such violation occurs or continues. The City may petition the Superior Court to impose, assess, and recover such sums. The civil penalty provided in this Section excludes inspection costs and abatement costs, is cumulative and not exclusive, and shall be in addition to all other remedies available to the City under state and federal law and local ordinances.

Section 6 Nuisance

II-1-6.01

The erection, construction, enlarging, equipping, use, height, altering, repairing, moving, removing,

conversing, demolishing, improving, occupying or maintaining of buildings or structures or the installation, alteration or repair of electrical wiring, devices, appliances, equipment, systems, or facilities, or the installation, alteration or repair of plumbing or drainage lines, equipment, systems or facilities, or the use, design, installation, alteration, repair and replacement of heating and comfort cooling equipment contrary to the provisions of this Title is unlawful and the same is hereby declared to be a public nuisance.

Section 7 Remedies

II-1-7.01

The remedies and penalties provided for by this Chapter shall be cumulative, and not exclusive, and shall be in addition to such other remedies or penalties as are provided.

Section 8 Permit Issuance

II-1-8.01 Issuance

The application, construction documents, specifications, computations and other data, filed by an applicant for permit shall be reviewed by the Building Official. Such documents may be reviewed by other departments of this jurisdiction to verify compliance with any applicable laws under their jurisdiction. If the Building Official finds that the work described in an application for a permit and the construction documents, specifications and other data filed therewith conform to the requirements of this Title and other pertinent laws and ordinances, and that the fees specified have been paid, the Building Official shall issue a permit therefore to the applicant.

The Building Official shall endorse in writing or stamp the required construction documents and specifications. Such approved construction documents and specifications shall not be changed, modified or altered without authorizations from the Building Official, and all work regulated by this Title shall be done in accordance with approved plans.

The Building Official may issue a permit for the construction of part of a building, structure or building service equipment before the entire construction documents and specifications for the whole building, structure or building service equipment have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of the codes. The holder of such permit shall proceed at his own risk without assurance that the permit for the entire building, structure or building service will be granted.

II-1-8.02 Retention of Construction Documents

One set of approved construction documents and computations shall be retained by the Building Official for a period of not less than 180 days from the date of completion of the permitted work covered therein; and one set of approved construction documents shall be returned to the applicant and shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress.

II-1-8.03 Validity of Permit

The issuance of a permit or approval of construction documents, specifications and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Title, or any other ordinance of the jurisdiction. Permit presuming to give authority to violate or cancel the provisions of the codes shall not be valid.

The issuance of a permit based upon construction documents, specifications and other data shall not prevent the Building Official from thereafter requiring the correction of errors in said construction documents, specifications and other data, or from preventing building operations being carried on there under when in violation of this Title or of any other ordinances of this jurisdiction.

II-1-8.04 Expiration

Every permit issued by the Building Official under the provisions of this Title shall expire by limitation and become null and void, if the building or work authorized by such permit is not commenced or an inspection made within 12 months from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained and the fee therefore shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original construction documents and specifications for such work; and provided further that such suspension or abandonment has not exceeded 360 days. If the suspension or abandonment exceeds 360 days, the permittee shall pay a new full permit fee for the issuance of a permit.

Any permittee holding an unexpired permit may apply for an extension of the time within which the permittee may commence work under that permit. Requests must be in writing and demonstrate that an extension is warranted because of circumstances beyond the control of the permittee. The Building Official may grant one or more extensions of time for periods not exceeding 180 days each. No permit shall be extended more than three times.

II-1-8.05 Suspension or Revocation

The Building Official may, in writing, suspend or revoke a permit issued under the provisions of this Title whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation or any of the provisions of this Title.

Section 9 Fees

II-1-9.01 Permit Fees

The fee for each permit shall be as set forth by resolution of the City Council.

II-1-9.02 Plan Review Fees

When construction documents or other data are required to be submitted, a plan review fee shall be paid at the time of submitting construction documents and specifications for review. Said plan review fee shall be as set forth by resolution of the City Council.

When submittal documents are incomplete or changed so as to require additional plan review or when the project involves deferred submittal items, an additional plan review fee may be charged at the rate set by resolution of the City Council.

II-1-9.03 Fee Refunds

The Building Official may authorize the refunding of any fee paid hereunder when there are two permits for the same work (double permitting).

The Building Official may authorize the refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this title.

The Building Official may authorize the refunding of not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or cancelled before any plan review is performed.

The Building Official shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than 1 year after the date of fee payment.

Chapter 3 – BUILDING CODE

Chapter 3 of Title II of the Milpitas Municipal Code is hereby repealed in its entirety and replaced with the text below to read as follows:

Sections:

Section 1 – Adoption of the Building Code

Section 2 – Amendments to the Building Code

Section 1 Adoption of the Building Code

II-3-1.01

The 2019 California Building Code, published and copyrighted by the International Code Council, Inc. and the California Building Standards Commission in Part 2 of Title 24 of the California Code of Regulations, is hereby adopted and referred to, and by this reference expressly incorporated and made a part of this Chapter as though fully set forth herein. The 2019 California Building Code shall be designated and referred to as the “Building Code” for the City of Milpitas. There is one copy of said Code on file in the office of the Building Official for use and examination by the public.

Section 2 Amendments to the Building Code

II-3-2.01 Amendments: Chapter 4

Amend Section 402.5 of the California Building Code by deleting the exception.

Amend Section 403.3 of the California Building Code by deleting all exceptions.
Amend Section 404.3 of the California Building Code by deleting all exceptions.
Amend Section 410.6 of the California Building Code by deleting all exceptions.

II-3-2.02 Amendment: Section 1505.1.5

Amend Section 1505 of the California Building Code by adding Section 1505.1.5 to read as follows:

1505.1.5 Roofing requirements for hillside construction. Class A or Class B roof covering shall be required for all hillside construction.

II-3-2.03 Amendment: Section 1705.3 Exception 1

Amend Section 1705.3 Exception 1 of the California Building Code to read as follows:

1. Isolated spread concrete footings of buildings three stories or less above grade plane that are fully supported on earth or rock, where the structural design of the footing is based upon a specified compressive strength, f'_c , no greater than 2,500 pounds per square inch (psi) (17.2 MPa).

II-3-2.04 Amendment: Section 1808.1

Amend Section 1808.1 of the California Building Code by adding the following to the end of the section to read as follows:

All new foundations for building additions to R-3 occupancies shall be of the same type of foundation system as the existing structure, unless the foundation system is designed, and plans, calculations, and specifications are prepared, stamped and signed, by a California licensed engineer or architect.

Chapter 3.5 – RESIDENTIAL CODE

Chapter 3.5 of Title II of the Milpitas Municipal Code is hereby repealed in its entirety and replaced with the text below to read as follows:

Sections:

Section 1 – Adoption of the Residential Code

Section 2 – Amendments to the Residential Code

Section 1 Adoption of the Residential Code

II-3.5-1.01

The 2019 California Residential Code, published by the International Code Council, Inc. and the California Building Standards Commission in Part 2.5 of Title 24 of the California Code of Regulations, is hereby adopted and referred to, and by this reference expressly incorporated and made a part of this Chapter as though fully set forth herein. This adoption includes Appendix K. The 2019 California Residential Code shall be designated and referred to as the “Residential Code” for the City of Milpitas. There is one copy of said Code on file in the office of the Building Official for use and examination by the public.

Section 2 Amendments to the Residential Code

II-3.5-2.01 Amendment: Section R902.1.5

Amend Section R902 of the California Residential Code by adding Section R902.1.5 to read as follows:

R902.1.5 Roofing requirements for hillside construction. Class A or Class B roof covering shall be required for all hillside construction.

Chapter 4 – PROPERTY MAINTENANCE CODE

Chapter 4 of Title II of the Milpitas Municipal Code is hereby added to read as follows:

Sections:

Section 1 – Adoption of the Property Maintenance Code

Section 1 Adoption of the Property Maintenance Code

II-4-1.01

The 2018 International Property Maintenance Code, published by the International Code Council, Inc., is hereby adopted and referred to, and by this reference expressly incorporated and made a part of this Chapter as though fully set forth herein. The 2018 International Property Maintenance Code shall be designated and referred to as the “Property Maintenance Code” for the City of Milpitas. There is one copy of said Code on file in the office of the Building Official for use and examination by the public.

Chapter 5 – MECHANICAL CODE

Chapter 5 of Title II of the Milpitas Municipal Code is hereby repealed in its entirety and replaced with the text below to read as follows:

Sections:

Section 1 – Adoption of the Mechanical Code

Section 1 Adoption of the Mechanical Code

II-5-1.01

The 2019 California Mechanical Code, published and copyrighted by the International Association of Plumbing and Mechanical Officials and the California Building Standards Commission in Part 4 of Title 24 of the California Code of Regulations, is hereby adopted and referred to, and by this reference expressly incorporated and made a part of this Chapter as though fully set forth herein. The 2019 California Mechanical Code shall be designated and referred to as the “Mechanical Code” for the City of Milpitas. There is one copy of said Code on file in the office of the Building Official for use and examination by the public.

Chapter 6 – ELECTRICAL CODE

Chapter 6 of Title II of the Milpitas Municipal Code is hereby repealed in its entirety and replaced with the text below to read as follows:

Sections:

Section 1 – Adoption of the Electrical Code

Section 2 – Amendments to the Electrical Code

Section 1 Adoption of the Electrical Code

II-6-1.01

The 2019 California Electrical Code, published and copyrighted by the National Fire Protection Agency and the California Building Standards Commission in Part 3 of Title 24 of the California Code of Regulations, is hereby adopted and referred to, and by this reference expressly incorporated and made a part of this Chapter as though fully set forth herein. The adoption includes Annexes A, B, C, D, and F. The 2019 California Electrical Code shall be designated and referred to as the “Electrical Code” for the City of Milpitas. There is one copy of said Code on file in the office of the Building Official for use and examination by the public.

Section 2 Amendments to the Electrical Code

II-6-2.01

Amend Section 230.2 of the California Electrical Code by adding subsection (F) to read as follows:

230.2(F). Underground Service. All new electrical services shall be underground and installed per Section 230.30, Underground Service-Lateral Conductors. Exception: Relocation or replacement of existing electrical services at existing buildings.

II-6-2.02

Amend Section 230.70(A) of the California Electrical Code by adding subsection (4) to read as follows:

(4) Main Service Disconnect Location. The building main service disconnect and/or disconnects shall be installed on the first floor level of the building, in accordance with 230.70(A)(1), (A)(2), and (A)(3).

II-6-2.03

Amend Section 250.50 of the California Electrical Code by adding subsection (A) to read as follows:

250.50(A). Grounding System in New Buildings. Grounding electrode systems in all new buildings shall be an electrode encased by at least 50 mm (two inches) of concrete, located horizontally near the bottom or vertically, and within that portion of a concrete foundation or footing that is in direct contact with earth. The electrode shall consist of at least 6.0 m (20 feet) of one or more steel reinforcing bars or rods, of not less than 13 mm (½ inch) diameter, or consisting of at least 6.0 m (20 feet) of bare copper conductor not smaller than 4 AWG. The connection side of this concrete-encased electrode shall be located remotely away from the main electrical service equipment.

Chapter 7 – PLUMBING CODE

Chapter 7 of Title II of the Milpitas Municipal Code is hereby repealed in its entirety and replaced with the text below to read as follows:

Sections:

Section 1 – Adoption of the Plumbing Code

Section 1 Adoption of the Plumbing Code

II-7-1.01

The 2019 California Plumbing Code, published and copyrighted by the International Association of Plumbing and Mechanical Officials and the California Building Standards Commission in Part 5 of Title 24 of the California Code of Regulations, is hereby adopted and referred to, and by this reference expressly incorporated and made a part of this Chapter as though fully set forth herein. The adoption includes Appendices A, B, C, D, I, and M. The 2019 California Plumbing Code shall be designated and referred to as the “Plumbing Code” for the City of Milpitas. There is one copy of said code on file in the office of the Building Official for use and examination by the public.

Chapter 10 – SWIMMING POOL AND SPA CODE

Chapter 10 of Title II of the Milpitas Municipal Code is hereby added to read as follows:

Sections:

Section 1 – Adoption of the Swimming Pool and Spa Code

Section 1 Adoption of the Swimming Pool and Spa Code

II-10-1.01

The 2018 International Swimming Pool and Spa Code, published by the International Code Council, Inc., is hereby adopted and referred to, and by this reference expressly incorporated and made a part of this Chapter as though fully set forth herein. The 2018 International Swimming Pool and Spa Code shall be designated and referred to as the “Swimming Pool and Spa Code” for the City of Milpitas. There is one copy of said Code on file in the office of the Building Official for use and examination by the public.

Chapter 13 – GRADING, EXCAVATION, PAVING AND EROSION CONTROL

Chapter 13 Section II-13-39 subsection .02 is hereby amended to read as follows:

.02 The design guidelines for construction Best Management Practices and permanent stormwater quality protection shall conform to the City's Municipal Stormwater National Pollutant Discharge Elimination System (NPDES) permit, issued by the State of California Regional Water Quality Control Board by Order R2-2015-0049 for Municipal Regional Permit Number (MRP) CAS612008. Developers are responsible for reviewing and complying with the MRP conditions.

Chapter 14 – EXISTING BUILDING CODE

Chapter 14 of Title II of the Milpitas Municipal Code is hereby repealed in its entirety and replaced with the text below to read as follows:

Sections:

Section 1 – Adoption of the Existing Building Code

Section 1 Adoption of the Existing Building Code

II-14-1.01

The 2019 California Existing Building Code, published and copyrighted by the International Code Council, Inc. and the California Building Standards Commission in Part 10 of Title 24 of the California Code of Regulations, is hereby adopted and referred to, and by this reference expressly incorporated and made a part of this Chapter as though fully set forth herein. The adoption includes Appendices A1, A2, A3, and A5. The 2019 California Existing Building Code shall be designated and referred to as the “Existing Building Code” for the City of Milpitas. There is one copy of said Code on file in the office of the Building Official for use and examination by the public.

Chapter 150 – HISTORICAL BUILDING CODE

Chapter 150 of Title II of the Milpitas Municipal Code is hereby repealed in its entirety and replaced with the text below to read as follows:

Sections:

Section 1 – Adoption of Historical Building Code

Section 1 Adoption of the Historical Building Code

II-150-1.01

The 2019 California Historical Building Code, published and copyrighted by the International Code Council, Inc. and the California Building Standards Commission in Part 8 of Title 24 of the California Code of Regulations, is hereby adopted and referred to, and by this reference expressly incorporated and made a part of this Chapter as though fully set forth herein. The 2019 California Historical Building Code shall be designated and referred to as the “Historical Building Code” for the City of Milpitas. There is one copy of said Code on file in the office of the Building Official for use and examination by the public.

Chapter 170 – GAS SHUT-OFF DEVICES

Chapter 170 Section II-170-2.00 is hereby amended to read as follows:

II-170-2.00 – Location of Installation

- (1) An approved Seismic Gas Shut-off Device (motion sensitive) or an approved Excess Flow Gas Shut-off Device (non-motion sensitive) shall be installed downstream of the gas utility meter where the gas line serves any new building (commercial, industrial or residential) containing fuel gas piping for which a building permit is first issued on or after the effective date of the ordinance codified in this Chapter.

- (2) An approved Seismic Gas Shut-off Device (motion sensitive) or an approved Excess Flow Gas Shut-off Device (non-motion sensitive) shall be installed downstream of gas utility meter when providing alteration or addition to the existing gas fuel line.

SECTION 4. EXPRESS FINDINGS

Pursuant to California Health and Safety Code Sections 17958.7 and 18941.5, the City Council hereby finds that the above amendments are necessary due to local climatic, geological or topographical conditions as set forth in **Exhibit A**.

SECTION 5. REPEAL OF CONFLICTING ORDINANCES

Upon adoption of each new California Building Standards Code, the Ordinance adopting the previously adopted California Building Standards Code is superseded in its entirety. This Ordinance does not repeal Ordinance No. 65.148, which adopts by reference and amends the 2019 California Energy Code, Ordinance No. 65.149, which adopts by reference and amends the 2019 California Green Building Standards Code, nor Ordinance No. 113.25, which adopts by reference and amends the 2019 California Fire Code.

SECTION 6. SEVERABILITY

The provisions of this Ordinance are separable, and the invalidity of any phrase, clause, provision or part shall not affect the validity of the remainder.

SECTION 7. EFFECTIVE DATE AND POSTING

In accordance with Section 36937 of the Government Code of the State of California, this Ordinance shall take effect thirty (30) days from and after the date of its final adoption by the City Council, but no sooner than January 1, 2020. The City Clerk of the City of Milpitas shall cause this Ordinance or a summary thereof to be published in accordance with Section 36933 of the Government Code of the State of California.

EXHIBIT A

FINDINGS IN SUPPORT OF AMENDMENTS TO TITLE 24 OF THE CALIFORNIA CODE OF REGULATIONS: LOCAL CLIMATIC, GEOLOGICAL OR TOPOGRAPHICAL CONDITIONS

Chapter 3 – BUILDING CODE

The proposed substantive amendments to the Building Code involve the following:

- (1) Automatic sprinkler systems
- (2) Roofing cover requirement for hillside areas
- (3) Special inspection exception
- (4) Foundations and foundation reinforcement

The following findings support that the above amendments and modifications are reasonably necessary because of local climatic, geological or topographical conditions:

- (1) Automatic sprinkler systems

Amending the Code to remove exceptions where automatic sprinklers are not required is due to Milpitas being situated in an area of high seismic activities as indicated by the United States Geological Survey and the California Division of Mines and Geology. There is a higher level of risk for significant building damage and fire due to the higher incidence and magnitude of earthquakes in this area. Maintaining a higher level of life-safety of building occupants by providing removal of exceptions to installation of automatic fire sprinkler systems is therefore required.

- (2) Roofing cover requirement for hillside areas

Amending the Code to require that the roof covering for structures in the hillside area is a minimum Class B is necessary due to the climatic conditions of the area. The hillside area has a long history of high winds, with an associated higher risk of accelerated and more significant structure damage and higher potential for related casualties.

- (3) Special inspection exception

Amending the Code to require special inspection for isolated spread concrete footings of buildings of three stories or less where the structural design of the footing is based upon a specified compressive strength of concrete greater than 2,500 psi is necessary due to expansive (clay) soils and seismic activity common to this geological area.

- (4) Foundations and foundation reinforcement

Amending the Code to require all new foundations for building additions to R-3 occupancies shall be of the same type of foundation system as the existing structure, unless the foundation system is designed, and plans, calculations, and specifications are prepared, stamped and signed, by a California licensed engineer or architect, is necessary due to expansive (clay) soils and seismic activity common to this geological area.

Chapter 3.5 – RESIDENTIAL CODE

The proposed substantive amendments to the Residential Code involve the following:

- (1) Roofing cover requirement for hillside areas

The following findings support that the above amendments and modifications are reasonably necessary because of local climatic, geological or topographical conditions:

(1) Roofing cover requirement for hillside areas

Amending the Code to require that the roof covering for structures in the hillside area is a minimum Class B is necessary due to the climatic conditions of the area. The hillside area has a long history of high winds, with an associated higher risk of accelerated and more significant structure damage and higher potential for related casualties.

Chapter 6 – ELECTRICAL CODE

The proposed substantive amendments to the Electrical Code involve the following:

- (1) Requirement for all new electrical services to be underground
- (2) Disconnects of electrical power for each building to be in a readily accessible location on the first floor
- (3) Grounding systems in new buildings shall be an electrode encased in concrete

The following findings support that the above amendments and modifications are reasonably necessary because of local climatic, geological or topographical conditions:

(1) Requirement for all new electrical services to be underground

Buildings in many areas of Milpitas are located in high wind areas and flood plains. Due to these local climatic conditions, amending the Code to provide for elimination of overhead services that are inherently less safe in the event of windstorms and floods will provide a higher level of safety.

(2) Disconnects of electrical power for each building to be in a readily accessible location on the first floor

Amending the Code provides for a quicker means of finding the location of the main power disconnects to buildings in the event of seismic events and related potential for fire and other emergencies. This is critical as Milpitas is located in an area of high seismic activities.

(3) Grounding systems in new buildings shall be an electrode encased in concrete

Amending the Code allows significantly higher assurances that the grounding of the building electrical system will not deteriorate and fail due to the acidic and expansive properties of local soils. Other types of grounding, such as rods, will be subject to deterioration in local soils, whereas an encased electrode will not be in contact with the soils.

Providing equipment grounding conductors enhances capability of keeping electrical systems grounded, which is important in high amperage electrical services common to the City of Milpitas.