REGULAR

NUMBER: 65.149

TITLE: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS AMENDING CHAPTER 19 OF TITLE II OF THE MILPITAS MUNICIPAL CODE ADOPTING BY REFERENCE THE 2019 CALIFORNIA GREEN BUILDING STANDARDS CODE WITH AMENDMENTS

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of November 5, 2019, upon motion by Councilmember Phan, 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:

_____
Mary Lavelle, City Clerk

APPROVED:

_____
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 Green Building Standards Code; and

WHEREAS, the City Council wishes to amend portions of the California Green 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 Green Building Standards Code are enacted to provide more protection to the environment, 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, CHAPTER 19

Chapter 19 of Title II of the Milpitas Municipal Code is hereby repealed in its entirety and replaced with the text below to read as follows:

Chapter 19 GREEN BUILDING STANDARDS CODE

Sections:

Section 1 Adoption of the Green Building Standards Code

II-19-1.01
The 2019 Edition of the California Green Building Standards Code, published and copyrighted by the International Code Council, Inc. and the California Building Standards Commission in Part 11 of Title 24 of the California Code of Regulations, also known as the CALGreen Code 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 A4, A5, and A6.1. The 2019 California Green Building Standards Code shall be designated and referred to as the "Green Building Standards 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 Green Building Standards Code

II-19-2.01
Amend Section 202 of the Green Building Standards Code by adding the following definitions to read as follows:

EV Capable. A parking space that is to be served by a designated electrical panel with sufficient capacity to provide 110/120 volts at 20 amperes to the parking space, with raceways connecting the electrical panel and parking space that are installed in areas that will be inaccessible in the future, such as trenched underground or where penetrations to walls, floors, or other construction would otherwise be required for future installation of branch circuits. Raceways must be at least 1" in diameter and may be sized for multiple circuits as allowed by the California Electrical Code. The panel circuit directory shall identify the overcurrent protective device space(s) reserved for EV charging as "EV CAPABLE." Construction documents shall indicate future completion of the raceway from the panel to the parking space, using the installed raceway sections in the inaccessible areas.

Level 1 EV Ready Circuit: A parking space served by a complete electric circuit with a minimum of 110/120 volt, 20-ampere capacity including; electrical panel capacity, overprotection device, a minimum 1" diameter raceway that may include multiple circuits as allowed by the California Electrical Code, properly sized conductors, grounding and bonding, and either a) a receptacle labelled "Electric Vehicle Outlet" with at least a ½" font adjacent to the parking space, or b) labelled Electric Vehicle Supply Equipment (EVSE).

Level 2 EV Ready Circuit: A parking space served by a complete 208/240 volt 40 ampere electric circuit including the required electrical panel capacity, overcurrent protection device, a minimum 1" diameter raceway that may include multiple circuits as allowed by the California Electrical Code, properly sized conductors, grounding, bonding and either a) a receptacle labelled "Electric Vehicle Outlet" with a minimum ½" font, adjacent to the parking space, or b) a blank labelled Electric Vehicle Supply Equipment (EVSE) with a minimum output of 30 amperes.

II-19-2.02

Amend Section 4.106.4 through Section 4.106.4.2.3 of the Green Building Standards Code to read as follows:

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

Exceptions:

1. Where there is no commercial power supply.
2. Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU) without additional parking spaces.

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

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

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

1. When 20 or less multifamily dwelling units are constructed on a building site:
   a. 15% of dwelling unit parking spaces shall be provided with access to at least one Level 2 EV Ready circuit.
   b. 35% of dwelling unit parking spaces shall be provided with access to at least one Level 1 Capable circuit.
2. When more than 20 multifamily dwelling units are constructed on a building site:
   a. 20% of dwelling unit parking spaces shall be provided with access to at least one Level 2 EV Ready Circuit.
   b. 35% of dwelling unit with parking spaces shall be provided with access to at least one Level 1 Capable circuit.

Exception: For multifamily affordable housing projects:

For projects of $\leq$ 20 units, 5% of dwelling unit parking spaces shall be provided access to at least one Level 2 EV Ready circuit, and an additional 35% of dwelling unit parking spaces shall have access to at least one Level 1 EV Capable circuit.

For projects >20 units of multifamily affordable housing, 10% % of dwelling unit parking spaces shall be provided with access to at least one Level 2 EV Ready circuit and an additional 15% of dwelling unit parking spaces shall have access to at least one Level 1 EV Capable circuit.

Notes:

1. Load balancing systems may be installed to increase the number of EV chargers or the amperage or voltage beyond the minimum required. Load balancing does not allow installing less electrical panel capacity than would be required without load balancing.
2. Installation of Level 2 EV Ready Circuits above the minimum number required level may offset the minimum number Level 1 EV Ready Circuits required on a 1:1 basis.
3. The requirements apply to multifamily buildings with parking spaces including: a) assigned or leased to individual dwelling units, and b) unassigned residential parking.
4. The Building Official may consider allowing exceptions, on a case by case basis, to the requirements for EV infrastructure under this code section, if a building permit applicant submits documentation demonstrating that the increased cost of utility service and / or on-site transformer capacity would exceed an average of $4,500 among parking spaces with Level 2 EV Ready Circuits and Level 1 EV Ready Circuits. If costs are found to exceed this level, the applicant shall provide EV infrastructure up to a level that would not exceed an average cost of $4,500 per parking space for utility service, on-site transformer capacity, or a combination of both.

4.106.4.2.1 Electric Vehicle Charging Stations (EVCS). When EV chargers are installed, EV spaces required by Section 4.106.4.2.2, Item 3, shall comply with at least one of the following options:

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

Exception: Electric vehicle charging stations designed and constructed in compliance with the *California Building Code*, Chapter 11B, are not required to comply with Section 4.106.4.2.1 and Section 4.106.4.2.2, Item 3.

Note: The Division of the State Architect provides guidance on exemptions from Chapter 11B EV infrastructure accessibility requirements, such as buildings that are not subject to Chapter 11B and assigned parking spaces at buildings that are subject to Chapter 11B.

4.106.4.2.2 Electric Vehicle Charging Space (EV space) dimensions. The EV spaces shall be designed to comply with the following:

1. The minimum length of each EV space shall be 18 feet (5486 mm).
2. The minimum width of each EV space shall be 9 feet (2743 mm).
3. One in every 25 EV spaces, but not less than one, shall also have an 8-foot (2438 mm) wide minimum aisle. A 5-foot (1524 mm) wide minimum aisle shall be permitted provided the minimum width of the EV space is 12 feet (3658 mm). Surface slope for this EV space and the aisle shall not exceed 1 unit vertical in 48 units (2.083 percent slope).

4.106.4.2.3 Design Requirements. For all projects subject to California Code of Regulations Title 24, Part 2, Chapter 11B, construction documents shall indicate how many accessible EVCS would be required as per Title 24, Chapter 11B to convert all Level 2 EV Ready Circuits required under section 4.106.4 to EVCS. Construction documents shall also demonstrate that the facility is designed such that compliance with accessibility standards, including Chapter 11B accessible routes, will be feasible for the required accessible EVCS at the time of EVCS installation. Surface slope for any area designated for accessible EVCS shall meet slope requirements in Chapter 11B and vertical clearance requirements in Chapter 11B at the time of original building construction.[1]

Note: Section11B-812 of the 2016 California Building Code requires that a facility providing EVCS for public and common use also provides one or more accessible EVCS as specified in Table 11B-228.3.2.1. Chapter 11B applies to certain facilities including, but not limited to, public accommodations and publicly funded housing (see Section 1.9 of Part 2 of the California Building Code). Section 11B-812 requires that "Parking spaces, access aisles and vehicular routes serving them shall provide a vertical clearance of 98 inches (2489 mm) minimum." It also requires that parking spaces and access aisles meet maximum slope requirements of 1 unit vertical in 48 units horizontal (2.083 percent slope) in any direction at the time of new building construction or renovation. Section 11B-812.5 contains accessible route requirements. In addition, Title 24 Part 11 Section 4.106.4.2 requires that developers meet certain aspects of accessibility requirements at the time of new construction for a limited number of parking spaces.

II-19-2.03

Amend Section 5.106.5.3 through Section 5.106.5.3.3 of the Green Building Standards Code to read as follows:

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

Exception: Where there is no commercial power supply.

Notes:

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

5.106.5.3.1 Office Buildings. In nonresidential new construction buildings designated primarily for office use, when 10 or more parking spaces are constructed:

1. 5% of the available parking spaces on site shall be equipped with Level 2 EVCS;
2. An additional 10% shall be provided with at least Level 1 EV Ready circuits; and
3. An additional 20% shall be at least EV Capable or EV Ready.

Calculations for the required minimum number of spaces equipped with Level 2 EVCS, Level 2 EV Ready spaces and EV Capable spaces shall all be rounded up to the nearest whole number.
Construction plans and specifications shall demonstrate that all raceways shall be a minimum of 1" and sufficient for installation of EVCS at all required Level 1 EV Ready and EV Capable spaces; Electrical calculations shall substantiate the design of the electrical system to include the rating of equipment and any on-site distribution transformers, and have sufficient capacity to simultaneously charge EVs at all required EV spaces including Level 1 EV Ready and EV Capable spaces; and service panel or subpanel(s) shall have sufficient capacity to accommodate the required number of dedicated branch circuit(s) for the future installation of the EVSE.

5.106.5.3.2 Other Nonresidential Buildings. In nonresidential new construction buildings that are not designated primarily for office use, such as retail or institutional uses, when 10 or more parking spaces are constructed:

1. 4% of the available parking spaces on site shall be equipped with Level 2 EVCS;
2. An additional 3% shall be at least Level 1 EV Capable.
3. Over 100 spaces: option for one 80kW Fast Charger per 100 spaces.

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

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

5.106.5.3.3 Design Requirements. For all projects subject to Title 24, Part 2, Chapter 11B, construction documents shall indicate how many accessible EVCS would be required under the California Code of Regulations Title 24, Chapter 11B, if applicable, in order to convert Level 1 EV Ready infrastructure to EVCS. Construction documents shall also demonstrate that the facility is designed such that compliance with accessibility standards, including Chapter 11B accessible routes, will be feasible for the required accessible EVCS at the time of EVCS installation. Surface slope for any area designated for accessible EVCS shall meet slope requirements in Chapter 11B and vertical clearance requirements in Chapter 11B at the time of original building construction.

II-19-2.04
Amend Section 5.106.5.3.5 of the Green Building Standards Code to read as follows:

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

Notes:

1. The California Department of Transportation adopts and publishes the California Manual on Uniform Traffic Control Devices (California MUTCD) to provide uniform standards and specifications for all official traffic control devices in California. Zero Emission Vehicle Signs and Pavement Markings can be found in the New Policies & Directives number 13-01. www.dot.ca.gov/hq/traffops/policy/13-01.pdf.
2. See Vehicle Code Section 22511 for EV charging spaces signage in off-street parking facilities and for use of EV charging spaces.
3. The Governor's Office of Planning and Research published a Zero-Emission Vehicle Community Readiness Guidebook which provides helpful information for local governments, residents and businesses. www.opr.ca.gov/ docs/ZEV_Guidebook.pdf.
4. Section 11B-812 of the 2016 California Building Code requires that a facility providing EVCS for public and common use also provide one or more accessible EVCS as specified in Table 11B-228.3.2.1. Chapter 11B applies to certain facilities including, but not limited to, public accommodations and publicly funded housing (see section 1.9 of Part 2 of the California Building Code). Section 11B-812 requires that "Parking spaces, access aisles and vehicular routes serving them shall provide a vertical clearance of 98 inches (2489 mm) minimum." It also requires that parking spaces and access aisles meet maximum slope requirements of 1 unit vertical in 48 units horizontal (2.083 percent slope) in any direction at the time of new building construction or renovation. Section 11B-812.5 contains accessible route requirements.

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. 65.147, which adopts by reference and amends parts of the 2019 California Building Standards Code, Ordinance No. 65.148, which adopts by reference and amends the 2019 California Energy 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

Amendments to the Green Building Standards Code:

II-19-2.01	Section 202	Definitions
II-19-2.02	Section 4.106.4 through 4.106.4.2.3	EV charging for single family, duplex, townhouse, and multi-family
II-19-2.03	Section 5.106.5.3 through 5.106.5.3.3	EV charging for new office, and other non-residential buildings
II-19-2.04	Section 5.106.5.3.5	Clean air vehicle parking

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

Express Findings – Climatic

The effects of climate change caused by Green House Gas (GHG) emissions are increasingly self-evident, and very costly. Higher temperatures are contributing to record heat waves and droughts, rising sea levels, more intense storms, wildfires and floods.

Climate change is the fundamental design problem of our time. The threat that climate change poses is existential, and buildings together with transportation are large contributors.

Amending all of the above referenced code sections is necessary to combat the ever-increasing harmful effects of climate change. Implementation of the proposed reach code amendments will provide an accelerated path to reduce Green House Gas (GHG) emissions and carbonization in an effort to stem the tide of GHG emissions and the effects of global warming and climate change.