STATE OF CALIFORNIA – GOVERNMENT OPERATIONS AGENCY GOVERNOR EDMUND G. BROWN JR.

BUILDING STANDARDS COMMISSION
2525 Natomas Park Drive, Suite 130
Sacramento, California 95833-2936
(916) 263-0916 FAX (916) 263-0959

January 22, 2014

Mary Lavelle
City Clerk
City of Milpitas
455 East Calaveras Boulevard
Milpitas, CA 95035

RE: Ordinance #65-142

Dear Ms. Lavelle:

This letter is to advise you of our determination regarding the referenced ordinance with express findings received from your agency on December 6, 2013.

Our review finds the submittal to contain one ordinance modifying provisions of the 2013 California Building Standards Code in Title 24, California Code of Regulations (code), and express findings complying with Health and Safety Code §§17958.7 and 18941.5. The code modification is accepted for filing and is enforceable. This letter attests only to the satisfaction of the cited law for filing of local code amendment supported by an express finding with the Commission. The Commission is not authorized by law to evaluate the merit of the code modification or the express finding.

Local modifications to the code are specific to a particular edition of the code. They must be readopted and filed with the Commission in order to remain in effect when the next triennial edition of the code is published.

On a related matter, should your city receive and ratify Fire Protection District ordinances making modifications to the code, be advised that Health and Safety Code §13869.7(c) requires such ratified ordinances and express findings to be filed with the Department of Housing and Community Development, Division of Codes and Standards, State Housing Law Program, rather than this Commission. Also, ordinances making modifications to the energy efficiency standards of the code may require approval from the California Energy Commission pursuant to Public Resources Code §25402.1(h)(2).

If you have any questions or need any further information, you may contact me at (916) 263-0916.

Sincerely,

Enrique M. Rodriguez
Associate Construction Analyst

cc: Chron
Local Filings

RECEIVED
2013 DEC -6 P 4:35
CITY CLERK'S OFFICE

CERTIFICATION OF CITY CLERK

ORDINANCE NO. 65.142

I, Mary Lavelle, City Clerk of the City of Milpitas, do hereby certify that the attached Ordinance is a true and correct copy of Ordinance No. 65.142 of the City of Milpitas, that this Ordinance was duly enacted and adopted by the City Council of the City of Milpitas at a meeting of the City Council held on the 19th day of November 2013, and that the Ordinance was published and/or posted in the manner required by law.

WITNESS my hand and the Official Seal of the City of Milpitas, California, this 27th day of November 2013.

Mary Lavelle

Mary Lavelle
Milpitas City Clerk

REGULAR

NUMBER: **65.142**

TITLE: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILPITAS REPEALING AND REPLACING CHAPTERS 1, 2, 3, 3.5, 5, 6, 7, 11, 12, 13, 14, 15, 19, 20, 150 AND 170 OF TITLE II OF THE MILPITAS MUNICIPAL CODE**

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of November 5, 2013, upon motion by Councilmember Giordano and was adopted (second reading) by the City Council at its meeting of November 19, 2013 upon motion by Councilmember Giordano. The Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:	(4)	Mayor Esteves, Vice Mayor Polanski, and Councilmembers Giordano and Montano
NOES:	(0)	None
ABSENT:	(1)	Councilmember Gomez
ABSTAIN:	(0)	None

ATTEST:

Mary Lavelle

Mary Lavelle, City Clerk

APPROVED:

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney

RECITALS AND FINDINGS:

WHEREAS, the City Council of the City of Milpitas intends to adopt by reference into the Milpitas Municipal Code the 2013 California Building Code, Volume 1 and Volume 2, 2013 California Residential Code, 2013 California Mechanical Code, 2013 California Plumbing Code, 2013 California Electrical Code, 2013 California Historical Code, 2013 California Green Building Standards Code, 2013 California Energy Code and 2013 California Existing Building Code with Appendixes A2, A3, A4 and A5 of the 2013 International Existing Building Code; and

WHEREAS, in doing so, the City Council wishes to amend portions of the California Codes to better address local concerns and to be consistent with amendments made by the other cities and counties in the San Francisco East Bay, San Francisco Peninsula and Monterey Bay areas; and

WHEREAS, to the extent that it applies, Health and Safety Code Section 17958.5 requires such amendments to be reasonably necessary because of local climatic, geological or topographical conditions; and

WHEREAS, to the extent that it applies, Health and Safety Code Section 17958.7 requires local entities to make express findings that such amendments are necessary and the City has adopted a resolution making those findings in conjunction with this Ordinance adopting the model codes.

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 such things as the City 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. AMENDMENT OF MILPITAS MUNICIPAL CODE TITLE II

Chapters 1, 2, 3, 3.5, 5, 6, 7, 11, 12, 13, 14, 15, 19, 20, 150 and 170 of Title II of the Milpitas Municipal Code are hereby repealed in their entirety and replaced with the text below to read as follows:

Chapter 1 BUILDING ADMINISTRATION CODE

Sections:

Section 1 - Adoption of Code—Title
Section 2 - Purpose
Section 3 - Application to Existing Buildings and Building Service Equipment
Section 4 - Definitions
Section 5 - Conflicting Provisions
Section 6 - Alternate Materials, Design and Methods of Construction and Equipment
Section 7 - Modifications
Section 8 - Tests and Research Reports
Section 9 - Establishment of the Department
Section 10 - Authority
Section 11 - Powers and Duties of Chief Building Official
Section 12 - Unsafe Buildings, Structures or Building Service Equipment

Section 13 - Appeals
Section 14 - Violations
Section 15 - Nuisance
Section 16 - Remedies
Section 17 - Permits
Section 18 - Application for Permit
Section 19 - Permit Issuance
Section 20 - Fees
Section 21 - Inspections
Section 22 - Special Inspections
Section 23 - Structural Observation
Section 24 - Connection to Utilities
Section 25 - Certificate of Occupancy
Section 26 - Notice of Code Violations
Section 27 - Repeal of Conflicting Ordinances
Section 28 - Severability
Section 29 - Effective Date

Section 1 Adoption of Code—Title II-1-1.01 II-1-1.02

II-1-1.01

The Milpitas Building Administration Code is hereby adopted. There is one copy of said code in the office of the Chief Building Official for use and examination by the public.

II-1-1.02

These regulations shall be known as the "Milpitas Building Administration Code," may be cited as such and will be referred to herein as "this Chapter."

Section 2 Purpose

II-1-2.01

The purpose of this Chapter is to provide for the administration and enforcement of building codes (also referred to as the Technical Codes) and municipal ordinances within the Milpitas Municipal Code, Title II, adopted by this jurisdiction.

Technical Code	Adopted by Milpitas Municipal Code, Title II, Technical Code Chapter

	(as follows)
California Building Code	3
California Residential Code	3.5
California Mechanical Code	5
California Electrical Code	6
California Plumbing Code	7
California Energy Code	11
Code for Abatement of Dangerous Buildings	12
California Existing Building Code	14
California Green Building Standards Code	19
California Historical Building Code	150
All Supplements and Appendices and Standards Adopted for each of said Codes by said Title II and Chapters Thereof (which shall be known as the "technical codes") except as the specific provisions of any of said technical codes shall expressly declare this Chapter or any part thereof to be inapplicable.	

Section 3 Application to Existing Buildings and Building Service Equipment

II-1-3.01 General

II-1-3.02 Additions, Alterations or Repairs

II-1-3.03 Existing Installations

II-1-3.04 Existing Occupancy

II-1-3.05 Maintenance

II-1-3.06 Moved Buildings

II-1-3.07 Temporary Structures and Uses

II-1-3.08 Historic Buildings

II-1-3.01 General

Buildings, structures and their building service equipment to which additions, alterations or repairs are made shall comply with all the requirements of the technical codes for new facilities, except as specifically provided in this section.

II-1-3.02 Additions, Alterations or Repairs

Additions, alterations or repairs may be made to any building or its building service equipment without requiring the existing building or its building service equipment to comply with all the requirements of the technical codes, provided the addition, alteration or repair conforms to that required for a new building or building service equipment.

Additions or alterations shall not be made to an existing building or building service equipment which will cause the existing building or building service equipment to be in violation of any of the provisions of the technical codes nor shall such additions or alterations cause the existing building or building service equipment to become unsafe. An unsafe condition shall be deemed to have been created if an addition or alteration will cause the existing building or building service equipment to become structurally unsafe or overloaded; will not provide adequate egress in compliance with the provisions of the Building Code or will obstruct existing exits; will create a fire hazard; will reduce required fire resistance; will cause building service equipment to become overloaded or exceed their rated capacities; will create a health hazard or will otherwise create conditions dangerous to human life. Any building so altered, which involves a change in use or occupancy, shall not exceed the height, number of stories and area permitted by the Building Code for new buildings. Any building plus new additions shall not exceed the height, number of stories and area specified by the Building Code for new buildings.

Additions or alterations shall not be made to an existing building or structure when such existing building or structure is not in full compliance with the provisions of the Building Code except when such addition or alteration will result in the existing building or structure being no more hazardous based on life safety, fire safety and sanitation, than before such additions or alterations are undertaken.

Exception: Alterations of existing structural elements, or additions of new structural elements, which are not required by Sections II-1-3.03 and II-1-3.04 and which are initiated for the purpose of increasing the lateral-force-resisting strength or stiffness of an existing structure need not be designed for forces conforming to these regulations provided that an engineering analysis is submitted to show that:

1. The capacity of existing structural elements required to resist forces is not reduced;

2. The lateral loading to required existing structural elements is not increased beyond their capacity;

3. New structural elements are detailed and connected to the existing structural elements as required by these regulations;

4. New or relocated nonstructural elements are detailed and connected to existing or new structural elements as required by these regulations;

5. An unsafe condition as defined in Section II-1-3.02 is not created by such alterations or additions.

Alterations or repairs to an existing building or structure which are nonstructural and do not adversely affect any structural member or any part of the building or structure having required fire resistance may be made with the same materials of which the building or structure is constructed, subject to approval by the Chief Building Official. The installation or replacement of glass shall be as required for new installations.

Minor additions, alterations and repairs to existing building service equipment installations may be made in accordance with the technical code in effect at the time the original installation was made, subject to approval of the Chief Building Official, and provided such additions, alterations and repairs will not cause the existing building service equipment to become unsafe, unsanitary or overloaded.

II-1-3.03 Existing Installations

Building service equipment lawfully in existence at the time of the adoption of the technical codes may have their use, maintenance or repair continued if the use, maintenance or repair is in accordance with the original design and a hazard to life, health or property has not been created by such building service equipment.

II-1-3.04 Existing Occupancy

Buildings in existence at the time of the adoption of the Building Code may have their existing use or occupancy continued if the use or occupancy was legal at the time of the adoption of the Building Code, and provided continued use is not dangerous to life, health and safety.

Any change in the use or occupancy of any existing building or structure shall comply with the provisions of Section II-1-25.02 of this Chapter and Section 3408 of the Building Code.

II-1-3.05 Maintenance

All buildings, structures and building service equipment, existing and new, and all parts thereof shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by the technical codes shall be maintained in conformance with the technical code under which installed. The owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and their building service equipment. To determine compliance with this subsection, the Chief Building Official may cause any structure to be re-inspected.

II-1-3.06 Moved Buildings

Buildings, structures and their building service equipment moved into or within this jurisdiction shall comply with the provisions of the technical codes for new buildings or structures and their building service equipment.

II-1-3.07 Temporary Structures and Uses

Temporary structures such as reviewing stands and other miscellaneous structures, sheds, canopies or fences used for the protection of the public around and in conjunction with construction work may be erected by special permit from the Chief Building Official for a limited period of time but shall not be permitted for more than 180 days. Such buildings or structures erected under a special permit need not comply with the type of construction or fire-resistive time periods required by the Building Code. Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of this Title and technical codes as necessary to ensure public health, safety and general welfare. Temporary buildings or structures shall be completely removed upon the expiration of the time limit stated in the permit.

II-1-3.08 Historic Buildings

Repairs, alterations and additions necessary for the preservation, restoration, rehabilitation or continued use of a building structure, or its building service equipment may be made without conforming to the requirements of the technical codes when authorized by the Chief Building Official, provided:

1. The building or structure has been designated by official action of the legally constituted authority of this jurisdiction as having special historical or architectural significance.

2. Any unsafe conditions as described in this Title are corrected.

3. The restored building or structure and its building service equipment will be no more hazardous based on life safety, fire safety and sanitation than the existing building.

4. The restored or altered building conforms to minimum requirements of the California Historical Building Code.

Section 4 Definitions

II-1-4.01 General

For the purpose of this Chapter, certain terms, phrases, words and their derivatives shall be construed as specified in this section.

1. ADDITION is an extension or increase in floor area or height of a building or structure.

2. ALTER or ALTERATION is any construction or renovation to an existing structure other than repair or addition.

3. APPROVED, as to materials, types of construction, equipment and system, refers to approval by the Chief Building Official as the result of investigation and tests conducted by him, or by reason of accepted principles or tests by recognized authorities, technical or scientific organizations.

4. APPROVED AGENCY is an established and recognized agency regularly engaged in conducting tests or furnishing inspection services, when such agency has been approved by the Chief Building Official.

5. BUILDING is any structure used or intended for supporting or sheltering any use or occupancy.

6. BUILDING CODE is the most current edition of the California Building Code promulgated by the International Code Council and the State of California Building Standards Commission, as adopted by this jurisdiction.

7. BUILDING, EXISTING is a building erected prior to the adoption of this code, or one for which a legal building permit has been issued.

8. CHIEF BUILDING OFFICIAL is the officer or other designated authority charged with the administration and enforcement of this code, or a duly authorized representative.

9. BUILDING SERVICE EQUIPMENT refers to the plumbing, mechanical, electrical and elevator equipment including piping, wiring, fixtures and other accessories which provide sanitation, lighting, heating, ventilation, cooling, refrigeration, fire-fighting and transportation facilities essential to the occupancy of the building or structure for its intended and designated use.

10. ABATEMENT OF DANGEROUS BUILDINGS CODE is the Uniform Code for the Abatement of Dangerous Buildings promulgated by the International Conference of Building Officials, as adopted by this jurisdiction.

11. ELECTRICAL CODE is the most current edition of California Electrical Code promulgated by the National Fire Protection Association and the State of California Building Standards Commission, as adopted by this jurisdiction.

12. JURISDICTION, as used in this Chapter, is the City of Milpitas.

13. LISTED and LISTING are terms referring to equipment, materials, products or services, included in a list published by an approved testing agency, inspection agency, or other organization concerned with evaluation of products or services that maintains periodic inspection of current productions of listed equipment or materials or periodic evaluation of services. The published list shall state that the material, equipment, product or services complies with approved national recognized codes, standards or tests and has been tested or evaluated and found suitable for a specific purpose.

14. MECHANICAL CODE is the California Mechanical Code promulgated by the International Association of Plumbing and Mechanical Officials and the State of California Building Standards Commission, as adopted by this jurisdiction.

15. OCCUPANCY is the purpose for which a building, or part thereof, is used or intended to be used.

16. OWNER is any person, agent, firm or corporation having a legal or equitable interest in the property.

17. PERMIT is an official document or certificate issued by the Chief Building Official authorizing performance of a specified activity.

18. PERSON is an individual, heirs, trustee, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, or the agent of any of the aforesaid.

19. PLUMBING CODE is the California Plumbing Code promulgated by the International Association of Plumbing and Mechanical Officials and the State of California Building Standards Commission, as adopted by this jurisdiction.

20. REPAIR is the reconstruction or renewal of any part of an existing building, structure or building service equipment for the purpose of its maintenance.

21. SHALL, as used in this code, means a mandatory specification or requirement.

22. STRUCTURAL OBSERVATION means the visual observation of the structural system by a registered design professional, including but not limited to, the elements and connections for general conformance to the approved construction documents at significant construction stages and at completion of the structural system. Structural observation does not include or waive the responsibility for the inspections required by Sections II-1-21 and II-1-22.

23. STRUCTURE is that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

24. TECHNICAL CODES refer to those codes adopted by this jurisdiction containing the provisions for design, construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of all buildings and structures and building service equipment as herein defined. The term refers to the following codes as adopted and amended by the City of Milpitas:

Technical Code	Adopted by Milpitas Municipal Code, Title II, Technical Code Chapter (as follows)
California Building Code	3
California Residential Code	3.5
California Mechanical Code	5
California Electrical Code	6
California Plumbing Code	7
California Energy Code	11
Code for Abatement of Dangerous Buildings	12
California Existing Building Code	14
California Green Building Standards Code	19
California Historical Building Code	150
All Supplements and Appendices and Standards Adopted for each of said Codes by said Title II and Chapters Thereof (which shall be known as the "technical codes") except as the specific provisions of any of said technical codes shall expressly declare this Chapter or any part thereof to be inapplicable.	

25. VALUATION or VALUE, as applied to a building and its building service equipment, shall be the estimated cost to replace the building and its building service equipment in kind, based on current replacement costs.

26. CONSTRUCTION DOCUMENTS are written, graphic and pictorial documents or plans prepared or assembled for describing the design, location and physical characteristics of the elements of a project necessary for obtaining a building permit.

Section 5 Conflicting Provisions

II-1-5.01

When conflicting provisions or requirements occur between this code, the technical codes and other codes or laws, the most restrictive shall govern.

When conflicts occur between the technical codes, those provisions providing the greater safety to life shall govern. In other conflicts where sanitation, life safety or fire safety are not involved, the most restrictive provisions shall govern.

Where in any specific case different sections of the technical codes specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

When conflicts occur between specific provisions of this Chapter and any administrative provisions in the technical codes, which are then applicable within this jurisdiction, those provisions of this Chapter shall govern, unless the technical codes (or the ordinance adopting the same) shall expressly declare that this Chapter or any part thereof is inapplicable.

Section 6 Alternate Materials, Design and Methods of Construction and Equipment

II-1-6.01

The provisions of the technical codes are not intended to prevent the installation of any material, or to prohibit any design or method of construction not specifically prescribed by the technical codes, provided any such alternative has been approved.

An alternative material, design or method of construction shall be approved where the Chief Building Official finds that the proposed design is satisfactory and complies with the provisions of the technical codes, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in the technical codes in quality, strength, effectiveness, fire resistance, durability, safety, sanitation and provides access to the physically disabled in accordance with State standards.

The Chief Building Official shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding its use. The details of an action granting approval of an alternate shall be recorded and entered in the files of the code enforcement agency.

The Chief Building Official may require the applicant to arrange for the proposed alternative materials, design and method of construction be reviewed and evaluated by an outside agency designated by the Chief Building Official at the applicants' expense.

Section 7 Modifications

II-1-7.01

Whenever there are practical difficulties involved in carrying out the provisions of the technical codes, the Chief Building Official may grant modifications for individual cases, provided that owner or owner representative shall first find that a special individual reason makes the strict letter of the

technical codes impractical and the modification is in conformity with the intent and purpose of the technical codes, and that such modification does not lessen health, life safety, fire safety requirements, any degree of structural integrity or access for the physically disabled. The details of actions granting modifications shall be recorded and entered in the files of the code enforcement agency.

The Chief Building Official may require the applicant to arrange for the proposed modification to be reviewed by an outside agency designated by the Chief Building Official at the applicant's expense.

Section 8 Tests and Research Reports

II-1-8.01
II-1-8.02

II-1-8.01

Whenever there is insufficient evidence of compliance with the provisions of the technical codes, or evidence that a material or construction method does not conform to the requirements of the technical codes, or in order to substantiate claims for alternative materials or construction methods, the Chief Building Official may require tests as evidence of compliance to be made at no expense to this jurisdiction.

Test methods shall be as specified by the technical codes or by other recognized test standards. In the absence of recognized and accepted test methods, the Chief Building Official shall approve the testing procedures.

Tests shall be made by an agency approved by the Chief Building Official. Reports of such tests shall be retained by the Chief Building Official for the period required for the retention of public records.

II-1-8.02

Supporting data, where necessary to assist in the approval of materials or assemblies not specially provided for in the technical codes, shall consist of valid research reports from approved sources.

Section 9 Establishment of the Department

II-1-9.01

There is hereby established in the City of Milpitas the "Building and Safety Department" which shall be under the jurisdiction of the City Manager.

Section 10 Authority

II-1-10.01 - Creation of Enforcement Agency

II-1-10.02 - General

II-1-10.01 Creation of Enforcement Agency

There is hereby established in this jurisdiction a code enforcement agency which shall be under the administrative and operational control of the Chief Building Official.

II-1-10.02 General

Whenever the term of title "administrative authority," "responsible official," "building official," "chief inspector," "code enforcement officer," or other similar designation is used herein or in any of the technical codes, it shall be construed to mean the Chief Building Official designated by the appointing authority of this jurisdiction.

Section 11 Powers and Duties of Chief Building Official

II-1-11.01 General

II-1-11.02 Deputies

II-1-11.03 Right of Entry

II-1-11.04 Stop Orders

II-1-11.05 Occupancy Violations

II-1-11.01 General

The Chief Building Official is hereby authorized and directed to enforce all the provisions of this Title, and the referenced technical codes. For such purposes, the Chief Building Official shall have the powers of a law enforcement officer.

The Chief Building Official shall have the power to render interpretations of this Title and the referenced technical codes, and to adopt and enforce policies, procedures, rules and regulations supplemental to this code in order to clarify the application of the provisions of this Title. Such interpretations, policies, procedures, rules and regulations shall be in conformity with the intent and purpose of this Title. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

II-1-11.02 Deputies

In accordance with prescribed procedures and with the approval of the appointing authority, the Chief Building Official may appoint related technical officers and inspectors and other employees as shall be authorized. The Chief Building Official may deputize such technical officers, inspectors or employees as may be necessary to carry out the functions of the code enforcement agency.

II-1-11.03 Right of Entry

Whenever it is necessary to make an inspection to enforce any of the provisions of this Title, and the technical codes or whenever the Chief Building Official or his/her authorized representative has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building or premises unsafe, dangerous or hazardous, the Chief Building Official or his/her authorized representative is authorized to enter the building or premises at all reasonable times to inspect or to perform the duties imposed upon the Chief Building Official by this Title, provided that, if such building or premises be occupied that credentials be presented to the occupant, entry requested and permission received; and if such building or premises is unoccupied, the Chief Building Official shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request and receive permission for entry. If such entry is refused, the Chief Building Official or his/her authorized representative shall have recourse to every remedy provided by law to secure entry.

When the Chief Building Official or his/her authorized representative obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Chief Building Official or his/her authorized representative for the purpose of inspection and examination pursuant to this code.

II-1-11.04 Stop Work Orders

Whenever any work is being done contrary to the provisions of this Title, the technical codes or other pertinent laws or ordinances implemented through the enforcement of this Title, or that may be dangerous or unsafe, the Chief Building Official is authorized to issue a stop work order in writing served on any persons engaged in the doing or causing such work to be done, or by posting said notice at main entry or other conspicuous location of the structure, and any such persons shall forthwith stop such work until authorized by the Chief Building Official to proceed with the work in writing. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

II-1-11.05 Occupancy Violations

Whenever any building or structure or building service equipment therein regulated by this Title and the technical codes is being used contrary to the provisions of this Title, the Chief Building Official may order such use discontinued and the structure, or portion thereof, vacated by written notice served on any person causing such use to be continued. Such person shall discontinue the use within the time prescribed by the Chief Building Official after receipt of such notice to make the structure, or portion thereof, comply with the requirements of this Title.

Section 12 Unsafe Buildings, Structures or Building Service Equipment

II-1-12.01

II-1-12.02 Notice of Correction or Abatement of Unsafe Structures

II-1-12.03 Posting Notice of Hazardous Building

II-1-12.04 Authority to Disconnect Utilities

II-1-12.05 Authority to Condemn Building Service Equipment

II-1-12.06 Connection After Order to Disconnect

II-1-12.07 Withholding Permit

II-1-12.08 Liability

II-1-12.09 Hearing

II-1-12.01

All building or structures regulated by this Title and the technical codes, which 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 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 Uniform Code for the Abatement of Dangerous Buildings or such alternate procedures as may be adopted by this jurisdiction. As an alternative, the Chief Building Official or other employee or official of this jurisdiction as designated by the governing body may institute any other appropriate action to prevent, restrain, correct or abate the violation.

II-1-12.02 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 Chief 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 Chief Building Official may allow. If, in the opinion of the Chief 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 or trust of record.

II-1-12.03 Posting Notice of Hazardous Building

Every building which the Chief 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: Building and Safety 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 Chief 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-1-12.04 Authority to Disconnect Utilities

The Chief 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 or the technical codes in case of emergency where necessary to eliminate an immediate hazard to life or property. The Chief 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 reason of the inspections authorized by this Title or any certificates of inspection issued under this Title.

II-1-12.05 Authority to Condemn Building Service Equipment

Whenever the Chief Building Official ascertains that any building service equipment regulated in the technical 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 technical codes and in violation of any notice issued pursuant to the provisions of this section, the Chief Building Official shall institute any appropriate action to prevent, restrain, correct or abate the violation.

II-1-12.06 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 Chief Building Official or the use of which has been ordered to be discontinued by the Chief Building Official until the Chief Building Official authorizes the reconnection and use of such equipment.

II-1-12.07 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-1-12.08 Liability

Without limitation to the generality of any provision of the Milpitas Municipal Code, the duties imposed by this Title upon the Chief 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 Chapter or any certificates of inspections issued under this Chapter.

II-1-12.09 Hearing

Any aggrieved person may request an informal hearing before the Chief Building Official or his/her designee, with respect to any action taken or to be taken under the provisions of Section 12 of this Chapter. 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 Chief Building Official's order unless the Chief Building Official shall so order.

Section 13 Appeals

II-1-13.01

Appeals may be had under this Chapter, pursuant to the provisions of Section 5 of the Standard Procedures Chapter of the Milpitas Municipal Code. An appeal shall stay all proceedings in furtherance of the act or decision appealed unless the Chief 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 14 Violations

II-1-14.01

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 and the technical codes.

II-1-14.02 Civil Penalties

Any person who intentionally, accidentally or negligently violates any provision of this Title, any written authority of the Chief 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. Funds collected pursuant to this Section shall be paid to the City's Building Code Training account which shall be a holding account to be used solely for Building Code enforcement training.

Section 15 Nuisance

II-1-15.01

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 16 Remedies

II-1-16.01

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 17 Permits

II-1-17.01 Permits Required

II-1-17.02 Exempted Work

II-1-17.03 Building Permits

II-1-17.04 Plumbing Permits

II-1-17.05 Electrical Permits

II-1-17.06 Mechanical Permits

II-1-17.01 Permits Required

Except as specified in Section II-1-17.03 of this Chapter, no building, structure or building service equipment regulated by this Title and the technical code shall be erected, constructed,

enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate, appropriate permit for each building, structure or building service equipment has first been obtained from the Chief Building Official.

II-1-17.02 Exempted Work

A permit shall not be required for the types of work in each of the separate classes of permits as listed below. Exemption from the permit requirements of this Chapter shall not be deemed to grant authorization for any work to be done in violation of the provisions of the technical codes or any other laws or ordinances of this jurisdiction.

II-1-17.03 Building Permits

A Building Permit shall not be required for the following:

1. One-story detached accessory buildings used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet.

2. Wood fences not over 7 feet high or masonry and concrete fences not over 4 feet high.

3. Non-fixed and moveable fixtures, cases, racks, counters, storage shelves and partitions not over 5 feet 9 inches high.

4. Retaining walls, which are not over 4 feet in height, measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or III A. liquids.

5. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed two to one.

6. Platforms, walks and driveways, not more than 30 inches above grade and not over any basement or story below and are not part of an accessible route.

7. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.

8. Temporary motion picture, television and theatre stage sets and scenery.

9. Window awnings supported by an exterior wall of Group R-3, and Group U Occupancies when projecting not more than 54 inches from exterior wall and do not require additional support of Group R-3 or U Occupancies.

10. Oil Derricks.

11. Swings and other playground equipment accessory to detached one and two-family dwellings.

12. Prefabricated swimming pools accessory to a Group R-3 Occupancy that are less than 24 inches deep, are installed entirely above the adjacent grade and do not exceed 5,000 gallons.

13. Residential decks not exceeding 200 square feet in area that are not more than 30 inches above grade at any point, are not attached to a dwelling unit and do not serve the required exit door.

Unless otherwise exempted by this Title, separate plumbing, electrical and mechanical permits are required for the above exempted work.

II-1-17.04 Plumbing Permits

A plumbing permit shall not be required for the following:

1. The stopping of leaks in drains, soil, waste or vent pipes, provided, however, that should any concealed trap, drainpipe, soil, waste or vent pipe become defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this Title.

2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

II-1-17.05 Electrical Permits

An Electrical Permit shall not be required for the following:

1. Portable motors or other portable appliances energized by means of a cord or cable having an attachment plug end to be connected to an approved receptacle when that cord or cable is permitted by the Electrical Code.

2. Repair or replacement of motors, transformers and controls within fixed approved appliances of the same type and rating in the same location.

3. Temporary decorative lighting.

4. Repair or replacement of current-carrying parts of any switch, contactor or control device.

5. Reinstallation of attachment plug receptacles, but not the outlets thereof.

6. Replacement of any overcurrent device less than 1,200 amps of the same capacity in the same location.

7. Repair or replacement of electrodes or transformers of the same size and capacity for signs or gas tube systems.

8. Taping joints.

9. Removal of electrical wiring.

10. Temporary wiring for experimental purposes in suitable experimental laboratories.

11. The wiring for temporary theatre, motion picture or television stage sets.

12. Electrical wiring, devices, appliances, apparatus or equipment operating at less than 25 volts and not capable of supplying more than 50 watts of energy.

13. Low-energy power, control and signal circuits of Classes II and III as defined in the Electrical Code.

14. A permit shall not be required for the installation, alteration or repair of electrical wiring, apparatus or equipment or the generation, transmission, distribution or metering of electrical energy or in the operation of signals or the transmission of intelligence by a public or private utility in the exercise of its function as a serving utility.

II-1-17.06 Mechanical Permits

A Mechanical Permit shall not be required for the following excepting that a permit is required for vertical and structural support and anchoring of permanent equipment and overhead pipes:

1. Any portable heating appliance.

2. Any portable ventilating equipment.

3. Any portable cooling unit.

4. Any portable evaporative cooler.

5. Any closed system of steam, hot or chilled water piping within any heating or cooling equipment regulated by the Mechanical Code.

6. Replacement of any component part of assembly of an appliance, which does not alter its original approval and complies with other applicable requirements of the technical codes.

7. Any refrigerating equipment, which is part of the equipment for which a permit has been issued pursuant to the requirements of the technical codes.

Section 18 Application for Permit

II-1-18.01 Application

II-1-18.02 Submittal Documents

II-1-18.03 Information on Plans and Specifications

II-1-18.04 Architect or Engineer of Record—General

II-1-18.05 Deferred Submittals

II-1-18.06 Amended Construction Documents

II-1-18.07 Special Inspection and Structural Observation Program

II-1-18.01 Application

To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished by the code enforcement agency for that purpose. Every such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.

2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.

3. Indicate the use and occupancy for which the proposed work is intended.

4. Be accompanied by plans, diagrams, computations and specifications and other information as required in Section II-1-18.02 of this Chapter.

5. State the valuation of the proposed work.

6. Be signed by the applicant, or the applicant's authorized agent.

7. Give such other data and information as may be required by the Chief Building Official.

II-1-18.02 Submittal Documents

Construction documents, specifications, engineering calculations, diagrams, soil investigation reports, special inspection and structural observation programs and other data shall constitute the submittal documents and shall be submitted for each permit application in two or more sets as determined by the Chief Building Official. When such construction documents are not prepared by a California registered licensed architect or engineer, the Chief Building Official may require the applicant submitting such construction documents or other data to demonstrate that state law does not require that the construction documents be prepared by a California registered licensed architect

or engineer. The Chief Building Official may require the construction documents to be prepared and designed by an engineer or architect licensed by the state to practice as such even if not required by state law.

Exception:

The Chief Building Official may waive the submission of construction documents, engineering calculations, construction inspection requirements, and other data, if it is found that the nature of the work applied for is such that reviewing of the above documents is not necessary to obtain compliance with this Title.

II-1-18.03 Information on Plans and Specifications

Construction documents shall be dimensioned and drawn to scale upon suitable material. Electronic media documents are permitted to be submitted when approved by the Chief Building Official. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of the technical codes and all relevant laws, ordinances, rules and regulations.

Construction documents for buildings of other than Groups R-3 and Group U Occupancies shall indicate how required structural and fire-resistive integrity will be maintained where penetrations will be made for electrical, mechanical, plumbing and communication conduits, pipes and similar systems.

II-1-18.04 Architect or Engineer of Record—General

When it is required that documents be prepared by a California registered licensed architect or engineer, the Chief Building Official may require the owner to engage and designate on the building permit application a California registered licensed architect or engineer who shall act as the architect or engineer of record. If the circumstances require, the owner may designate a substitute architect or engineer of record who shall perform all of the duties required of the original architect or engineer of record. The Chief Building Official shall be notified in writing by the owner if the architect or engineer of record is changed or is unable to continue to perform the duties.

The architect or engineer of record shall be responsible for reviewing and coordinating all submittal documents prepared by others, including deferred submittal items, for compatibility with the design of the building.

II-1-18.05 Deferred Submittals

For the purposes of this section, deferred submittals are defined as those portions of the design which are not submitted at the time of the application and which are to be submitted to the Chief Building Official within a specified period.

Deferral of any submittal items shall have prior approval of the Chief Building Official. The architect or engineer of record shall list the deferred submittals on the plans and shall submit the deferred submittal documents for review by the Chief Building Official.

Submittal documents for deferred submittal items shall be submitted to the architect or engineer of record who shall review them and forward them to the Chief Building Official with a notation indicating that the deferred submittal documents have been reviewed and that they have been found to be in general conformance with the design of the building. The deferred submittal items shall not be installed until their design and submittal documents have been approved by the Chief Building Official.

II-1-18.06 Amended Construction Documents

Work shall be installed in accordance with the approved construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

II-1-18.07 Special Inspection and Structural Observation Program

When special inspection is required by Section II-1-22, the architect or engineer of record shall prepare a special inspection program which shall be submitted to the Chief Building Official for approval prior to issuance of the building permit. The inspection program shall designate the portions of the work to have special inspection, the name or names of the individuals or firms who are to perform the special inspections and indicate the duties of the special inspectors.

The special inspector shall be employed by the owner, the engineer or architect of record, or an agent of the owner, but not the contractor or any other person responsible for the work. When structural observation is required by Section II-1-23, the inspection program shall name the individuals or firms who are to perform structural observation and describe the stages of construction at which structural observation is to occur. The inspection program shall include samples of inspection reports and provide time limits for submission of reports.

Section 19 Permit Issuance

II-1-19.01 Issuance

II-1-19.02 Retention of Construction Documents

II-1-19.03 Validity of Permit

II-1-19.04 Expiration

II-1-19.05 Suspension or Revocation

II-1-19.01 Issuance

The application, construction documents, specifications, computations and other data, filed by an applicant for permit shall be reviewed by the Chief 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 Chief 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 the technical codes and other pertinent laws and ordinances, and that the fees specified have been paid, the Chief Building Official shall issue a permit therefore to the applicant.

The Chief 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 Chief Building Official, and all work regulated by this Title shall be done in accordance with approved plans.

The Chief 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 technical 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-1-19.02 Retention of Construction Documents

One set of approved construction documents and computations shall be retained by the Chief 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-1-19.03 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 the technical codes, or any other ordinance of the jurisdiction. Permit presuming to give authority to violate or cancel the provisions of the technical codes shall not be valid.

The issuance of a permit based upon construction documents, specifications and other data shall not prevent the Chief 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-1-19.04 Expiration

Every permit issued by the Chief Building Official under the provisions of this Title and the technical codes 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 180 days 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 Chief 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-1-19.05 Suspension or Revocation

The Chief 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 20 Fees

II-1-20.01 Permit Fees

II-1-20.02 Plan Review Fees

II-1-20.03 Expiration of Plan Review

II-1-20.04 Investigation Fees—Work Without a Permit

II-1-20.05 Fee Refunds

II-1-20.01 Permit Fees

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

II-1-20.02 Plan Review Fees

When construction documents or other data are required to be submitted by Section II-1-18.02, 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 as defined in Section II-1-18.05, an additional plan review fee may be charged at the rate set by resolution of the City Council.

II-1-20.03 Expiration of Plan Review

Applications for which no permit is issued within 180 days following the date of application shall expire by limitation and construction documents and other data submitted for review may thereafter be returned to the applicant or destroyed by the Chief Building Official. In order to renew action on an application after expiration, the applicant shall resubmit construction documents and pay a new plan review fee.

For active applications, the Chief Building Official may grant one or more extensions of time upon submission of a written request by the applicant that demonstrates that circumstances beyond the control of the applicant warrant the issuance of an extension. Each extension shall not exceed 180 days and an application shall not be extended more than three times. In the event that a second or third extension is requested, the Chief Building Official shall require the resubmission of construction documents and other data and the payment of additional fees if this Title or any other pertinent laws or ordinances have been amended subsequent to the date of the application's submission. In such case, the applicant shall be required to pay additional fees for reprocessing of the submission.

II-1-20.04 Investigation Fees—Work Without a Permit

Whenever any work for which a permit is required by this Title has been commenced without first obtaining said permit, a special investigation will be made before a permit may be issued for such work.

An investigation fee, in addition to the permit fee, may be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this Title. The minimum investigation fee shall be the same as the minimum fee. The

payment of such investigation fee shall not exempt any applicant from compliance with all other provisions of this title or the technical codes nor from any penalty prescribed by law.

II-1-20.05 Fee Refunds

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

The Chief 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 Chief 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 done.

The Chief 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.

Section 21 Inspections

II-1-21.01 General

II-1-21.02 Inspection Record Card

II-1-21.03 Inspection Requests

II-1-21.04 Approval Required

II-1-21.05 Required Building Inspections

II-1-21.06 Required Building Service Equipment Inspections

II-1-21.07 Operation of Building Service Equipment

II-1-21.08 Other Inspections

II-1-21.09 Re-inspections

II-1-21.01 General

All construction work for which a permit is required shall be subject to inspection by the Chief Building Official and all such construction or work shall remain accessible and exposed for inspection purposes until approved by the Chief Building Official. In addition, certain types of construction shall have continuous inspection as specified in Section II-1-22.

Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this Title or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this Title or of other ordinances of the jurisdiction shall not be valid.

It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the Chief Building Official nor this jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

A survey of the lot may be required by the Chief Building Official to verify that the structure is located in accordance with the approved plans.

II-1-21.02 Inspection Record Card

Work requiring a permit shall not be commenced until the permit holder or his/her agent have posted or otherwise made available an inspection record card to allow the Chief Building Official conveniently to make the required entries thereon regarding inspection of the work. This card shall be maintained available by the permit holder until final approval has been granted by the Chief Building Official.

II-1-21.03 Inspection Requests

It shall be the duty of the person doing the work authorized by a permit to notify the Chief Building Official that such work is ready for inspection. The Chief Building Official may require that every request for inspection be filed at least one working day before such inspection is desired. Such request may be in writing, on line or by telephone at the option of the Chief Building Official.

It shall be the duty of the person requesting any inspections required either by this Title or the technical codes to provide access to and means for inspection of the work.

II-1-21.04 Approval Required

Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the Chief Building Official. The Chief Building Official, upon notification, shall make the requested inspections and shall either indicate that portion of the construction is satisfactory as completed or shall notify the permit holder or his agent wherein the same fails to comply with any of the technical codes or any other ordinances of the City of Milpitas. Any portions which do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the Chief Building Official.

There shall be a final inspection and approval of all buildings and structures when completed and ready for occupancy and use.

Reinforcing steel or structural framework of any part of any building or structure shall not be covered or concealed without first obtaining the approval of the Chief Building Official. Protection of joints and penetrations in fire-resistive assemblies shall not be concealed from view until inspected and approved.

II-1-21.05 Required Building Inspections

The Chief Building Official, upon notification, shall make the following inspections and shall either approve that portion of the construction as completed or shall notify the permit holder or his agent wherein the same fails to comply with this title.

1. Foundation Inspection. Inspection to be made after excavation for footings are complete and required reinforcing steel and inserts are in place. For concrete foundations, any required forms shall be in place prior to inspection. All materials for the foundation shall be on the job, except concrete ready-mixed in accordance with nationally recognized standards need not be on the job. Where the foundation is to be constructed of approved treated wood, additional inspections may be required by the Chief Building Official.

2. Concrete Slab or Under-Floor Inspection. Inspection to be made after all in-slab or under-floor building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including sub-floor.

3. Frame Inspection. Inspection to be made after the roof, all framing, fire blocking and bracing are in place and all pipes, chimneys and vents are complete and the rough electrical, plumbing, and heating wires, pipes, and ducts are approved.

4. Lath and/or Gypsum Board Inspection. Inspection to be made after all lath and Gypsum Board, interior and exterior, is in place, but before any plastering is applied or before Gypsum Board joints and fasteners are taped and finished.

5. Final Inspection. Inspection will be made after all work required by permit is completed and ready for occupancy.

II-1-21.06 Required Building Service Equipment Inspections

All building service equipment for which a permit is required by this Title shall be inspected by the Chief Building Official. No portion of any building service equipment intended to be concealed by any permanent portion of the building shall be concealed until inspected and approved. When the installation of any building service equipment is complete, an additional and final inspection shall be made. Building service equipment regulated by the technical codes shall not be connected to the water, fuel or power supply or sewer system until authorized by the Chief Building Official.

II-1-21.07 Operation of Building Service Equipment

The requirements of this section shall not be considered to prohibit the operation of any building service equipment installed to replace existing building service equipment serving an occupied portion of the building in the event a request for inspection of such building service equipment has been filed with the Chief Building Official not more than 48 hours after such replacement work is completed, and before any portions of such building service equipment is concealed by any permanent portion of the building.

II-1-21.08 Other Inspections

In addition to the called inspections specified above, the Chief Building Official may make or require other inspections of any construction work to ascertain compliance with the provisions of this Title or technical codes and other laws which are enforced by the code enforcement agency.

II-1-21.09 Re-inspections

A re-inspection fee may be assessed as set by resolution of the City Council for each inspection or re-inspection when such portion of work for which inspection is called is not complete or when corrections called for are not made.

This subsection is not to be interpreted as requiring re-inspection fees the first time a job is rejected for failure to comply with the requirements of the technical codes, but as controlling the practice of calling for inspections before the job is ready for such inspection or re-inspection.

Re-inspection fees may be assessed when the inspection record card is not posted or otherwise available on the work site, the approved plans are not readily available to the inspector, or failure to provide access on the date for which inspection is requested, or for deviating from plans requiring the approval of the Chief Building Official.

To obtain a re-inspection, the applicant shall make a request to the Chief Building Official and pay the re-inspection fee in accordance with the fee schedule adopted by this jurisdiction.

In instances where re-inspection fees have been assessed, no additional inspection of the work will be performed until the required fees have been paid.

Section 22 Special Inspections

II-1-22.01 Special Inspections and Structural Testing

Special inspection and structural testing shall be provided in accordance with Sections 1704 and 1705 of the California Building Code. Additional special inspections and structural testing may be required when deemed necessary by the Chief Building Official.

Section 23 Structural Observation

II-1-23.01 Structural Observation

Structural observation shall be provided in accordance with Section 1704.5 of the California Building Code. Additional structural observation may be required when deemed necessary by the Chief Building Official.

Section 24 Connection to Utilities

II-1-24.01 Energy Connections

II-1-24.02 Temporary Connections

II-1-24.01 Energy Connections

No person shall make connections from a source of energy, fuel or power to any building service equipment which is regulated by the technical codes and for which a permit is required by this Title, until approved by the Chief Building Official.

II-1-24.02 Temporary Connections

The Chief Building Official may authorize the temporary connection of the building service equipment to the source of energy, fuel or power for the purpose of testing building service equipment, or for use under a temporary Certificate of Occupancy.

Section 25 Certificate of Occupancy

II-1-25.01 Use and Occupancy

II-1-25.02 Change in Use

II-1-25.03 Certificate Issued

II-1-25.04 Temporary Occupancy

II-1-25.05 Posting

II-1-25.06 Revocation

II-1-25.01 Use and Occupancy

Buildings or structures shall not be used or occupied nor shall a change in the existing occupancy group classification of a building or structure or portion thereof be made until the Chief Building Official has issued a Certificate of Occupancy therefore as provided herein.

Exception: Group R-3and U Occupancies, and work exempt from building permits under Section II-17.03.

Issuance of a Certificate of Occupancy shall not be construed as an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Certificates presuming to give authority to violate or cancel the provisions of this Title or of other ordinances of the jurisdiction shall not be valid.

If a portion of any building does not conform to the requirements of this Title for a proposed occupancy, that portion shall be made to conform. The Chief Building Official may issue a new Certificate of Occupancy without stating therein that all of the requirements of this Title have been made and without requiring compliance with all such requirements if he/she finds that the change in occupancy will result in no increased hazard to life, health, property or public welfare.

When application is made for such Certificate of Occupancy, the Chief Building Official shall cause an inspection of the building to be made. The Chief Building Official shall advise the applicant of any alterations necessary. Before any application for such Certificate of Occupancy is accepted, a fee as set forth in the fee schedule shall be paid by the applicant to cover the cost to the City of the inspection of the building. Such fee shall be in addition to the business licensee fee required by Chapter I, Title III of the Milpitas Municipal Code.

II-1-25.02 Change in Use

Changes in the character or use of a building shall not be made except as specified in this Title and the technical codes.

II-1-25.03 Certificate Issued

After the Chief Building Official inspects the building or structure and finds no violations of the provisions of this Title or the technical codes or other laws, which are enforced by the code enforcement agency, the Chief Building Official shall issue a Certificate of Occupancy which shall contain the following:

1. The building permit number.
2. The address of the building.
3. The name and address of the owner.
4. A description of that portion of the building for which the certificate is issued.
5. A statement that the described portion of the building has been inspected for compliance with the requirements of this Title for the group of occupancy and the use for which the proposed occupancy is classified.
6. The use and occupancy.
7. Type of construction.

8. The name of the Chief Building Official and Fire Marshall.
9. Any special conditions of the Building Permit.

II-1-25.04 Temporary Occupancy

If the Chief Building Official finds that no substantial hazard will result from occupancy of any building or portion thereof before the same is completed, he/she may issue a Temporary Certificate of Occupancy for the use of a portion or portions of a building or structure prior to the completion of the entire building or structure. Temporary Certificate of Occupancy shall state the time period for which it is valid as set by the Chief Building Official.

II-1-25.05 Posting

The Certificate of Occupancy shall be posted in a conspicuous place on the premises and shall not be removed except by the Chief Building Official.

II-1-25.06 Revocation

The Chief Building Official may, in writing, suspend or revoke a Certificate of Occupancy issued under the provisions of this Title whenever the certificate is issued in error, or on the basis of incorrect information supplied, or when it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this Title.

Section 26 Notice of Code Violations

II-1-26.01 Notice of Code Violation

II-1-26.02 Recordation of Violation

II-1-26.03 Appeal to City Manager

II-1-26.01 Notice of Code Violation

Whenever the Chief 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 California Codes or appendices incorporated in any of the Chapters of said Title (including, but not limited to, the California Building Code, the California Residential Code, the California Electrical Code, the California Mechanical Code, the California Plumbing Code, the California Energy Code, the California Green Building Standards Code) 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, the Chief 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 Manager of 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 Chief Building Official. The notice shall state that within 20 days of the date of notice, the owner may request a hearing with the Chief Building Official to present evidence that a violation does not exist.

II-1-26.02 Recordation of Violation

Following a hearing and after consideration of the evidence presented, if the Chief Building Official determines that a code violation in fact exists, the Chief 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 Manager of 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 Chief Building Official, the Chief 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 Chief Building Official's decision is filed with the City Manager, as hereafter provided, the Chief Building Official shall record said notice of code violation after 45 days.

If no hearing was requested under Section II-1-26.01 and the violation continues, the Chief 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 Chief Building Official shall record said notice of code violation after 45 days.

II-1-26.03 Appeal to City Manager

If the owner requested a hearing and is dissatisfied with the result, the owner may file a written appeal to the City Manager within 15 days of the date of mailing of the letter from the Chief Building Official referred to in Section II-1-26.02. The appeal shall be made in accordance with Section I-20-5.00 of the Milpitas Municipal Code and shall be heard by the City Manager as hearing officer in accordance with the procedures set forth in Section I-20-3.00 of the Milpitas Municipal Code. In any case involving the interpretation of technical provisions of any of the codes, the City Manager may seek a written report of an expert of the Manager's selection, but shall not be bound by said report. The decision of the City Manager following the close of said hearing may be appealed to the City Council in accordance with Section I-20-5.01. The owner shall be given written notice by mail of the City Manager's decision within sixty (60) days of the hearing. No Notice of Code Violation shall be recorded until thirty (30) days from date of mailing of said decision to give the owner an additional opportunity to correct the violations.

Section 27 Repeal of Conflicting Ordinances

II-1-27.01

Upon adoption of each new Administrative Code, as amended, the previously adopted Administrative Code is superseded in its entirety.

Section 28 Severability

II-1-28.01

The City Council declares that, should any provision, section, paragraph, sentence, or word of this amendment be rendered or declared invalid by a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of said Chapter hereby adopted shall remain in full force and effect.

Section 29 Effective Date

II-1-29.01

This Chapter shall become effective on January 1, 2014.

Chapter 2 MOVING AND DEMOLITION

Sections:

Section 1 - Application of This Title and Chapter
Section 2 - Permits
Section 3 - Inspection By the Building Official
Section 4 - Denial of Permit
Section 5 - Notice Of Intention To Issue Moving Permit
Section 6 - Issuance of permits and conditions thereto
Section 7 - Cash Deposit or Surety Bond
Section 8 - Liability Insurance Required
Section 9 - Sealing the Sewer
Section 10 - Moving Requirements
Section 11 - Demolition of Buildings
Section 12 - Additional Requirements
Section 13 - Bond Requirement

Section 1 Application of This Title and Chapter

II-2-1.00

In addition to the other provisions of this Title, the provision of this Chapter shall apply to the moving and demolition of buildings or structures. Without limitation to the generality thereof, the moving permit and demolition permit herein referred to shall be deemed to be a class of the permit referred to in Section II-1-17.01 of this Title, and all provisions in this Chapter or in any other Chapter or Title of the Milpitas Municipal Code relating to permit under this Chapter shall also apply to said moving or demolition permits.

Section 2 Permits

II-2-2.00

II-2-2.01 Application

II-2-2.02 Contents of Application

II-2-2.03 Application Fee

II-2-2.04 Moving Permit Fee

II-2-2.05 Fee for Additional Buildings

II-2-2.00

No person shall move or cause to be moved any building or structure, as defined in this Title, or any Code adopted thereby, from any location within the City of Milpitas to any other location (within or without the said City of Milpitas,) without first obtaining a permit in writing.

II-2-2.01 Application

Application for said permit shall be filed in duplicate with the Building Official.

II-2-2.02 Contents of Application

The application shall specify the size and character of the building or structure to be moved, the proposed improvement to be made, if any, the place from which and the place to which said building or structure is to be moved, the method of such moving and the proposed route to be followed.

II-2-2.03 Application Fee

At the time of filing such application, the applicant shall pay to the Building Official an application fee in the amount of One Hundred Thirty-Eight Dollars ($138.00), plus a fee of 25 cents per mile one-way outside the City limits of Milpitas.

II-2-2.04 Moving Permit Fee

If a moving permit fee is issued as hereinafter provided by the Building Official, the applicant shall pay an additional moving permit fee of One Hundred Thirty-Eight Dollars ($138.00).

II-2-2.05 Fee for Additional Buildings

The fee for each additional building or portion of any severed building moved under one permit as provided herein shall be Two and 50/100 Dollars ($2.50).

Section 3 Inspection by the Building Official

II-2-3.01 Regulations on Inspection

Within three (3) working days after receipt of an application, the Building Official shall inspect the building or structure to be moved and the site to which the move is proposed (provided, however, that the Building Official may, but shall not be required to, inspect any site which is located outside the City of Milpitas). In addition, the Building Official may, in his discretion, inspect all roller, trucks, wheels, dollies, tractors or other apparatus proposed to be used in the moving operation, and shall restrict the use of such apparatus to that which, in his judgement will not cause injury to highways, bridges, or other property or hazard to traffic. The Building Official may also require reasonable changes in the route proposed, even though the route required may be longer than the one proposed, and may specify the hours within which any moving must be accomplished.

Section 4 Denial of Permit

II-2-4.01 Defective Buildings

II-2-4.02 Prohibited zone

II-2-4.03 Notice

II-2-4.04 Conditions must be met

The application for permit shall be denied when:

II-2-4.01 Defective Buildings

Any unlawful, dangerous or defective condition of a building proposed to be moved is such that remedy or correction cannot effectively be made; or

II-2-4.02 Prohibited Zone

The building or structure is of a type prohibited in that location by fire zone or zoning ordinance.

II-2-4.03 Notice

The Building Official shall inform the applicant of the denial in writing within five (5) working days of the filing of the application. The denial shall set forth the reasons therefor, shall designate the applicable provisions of the law or regulations upon which said denial is predicted.

II-2-4.04 Conditions Must be Met

The consents required by subsection II-2-6.05 of this Chapter cannot be obtained or the condition imposed pursuant thereto cannot or are not being met.

Section 5 Notice Of Intention To Issue Moving Permit

II-2-5.01 Posting of Notice

If the Building Official determines that the building or structure proposed to be moved will not come within the scope of the conditions prohibited by this Chapter, he shall cause a notice of intention to issue a moving permit to be posted within five (5) working days from filing the application on stakes at the front and rear of the proposed location (unless the proposed location is outside the City of Milpitas, in which event the Building Official may, but shall not be required to, post the front and rear of the proposed location) and on the front of the building proposed to be moved. Such notice shall not be less than 11" × 14" in size and shall set forth the character of the building to be moved, the present and proposed location of the building and the date of the posting. Such notice shall be posted for a minimum of five (5) days before the actual moving.

Section 6 Issuance of Permits and Conditions Thereto

II-2-6.01 Issuance

II-2-6.02 Compliance

II-2-6.03 No Occupancy or Utility Connection Until Contents of Permit are Completed

II-2-6.04 Proof of Completion of Requirements

II-2-6.05 Notification of Utilities

II-2-6.01 Issuance

In the event the decision of the Building Official to grant the permit is not appealed within the time authorized by this Chapter specified above and the building or structure proposed to be moved will not come within the scope of the conditions prohibited by this Chapter, and the applicant has complied with all other applicable requirements of this Title, the Building Official shall issue the permit. In the event an appeal has been filed, the Building Official shall issue or deny said permit, pursuant to the terms of the final decision of the Council and the other applicable provisions of this Title.

II-2-6.02 Compliance

If a permit is granted, it shall be granted under terms which shall require the applicant or owner of any building or structure to be moved to comply with the provisions of all applicable State laws, local ordinances and conditions specified by the Building Official, to make such changes or repairs as may be necessary to make such changes or repairs as may be necessary to comply therewith.

II-2-6.03 No Occupancy or Utility Connection Until Contents of Permit are Completed

No building or structure moved in accordance with the provisions of this Title shall be used or occupied or have utility services connected thereto until said necessary changes or repairs have been completed.

II-2-6.04 Proof of Completion of Requirements

Prior to the issuance of any permit, the Building Official shall also require the applicant to furnish proof that the requirements of any public utility, whose lines, wires, pipes or other structures which may be affected by said move, have been met.

II-2-6.05 Notification of Utilities

The applicant, as a condition to the issuance of the permit, shall agree to notify the public utilities which may be involved of the tentative time of such moving, the route of such moving, and the estimated loaded height of the building and moving equipment. The applicant shall further agree to bear the costs of any measures required to protect said public utility structures from destruction or damage due to the moving of any building pursuant to this Chapter. The Public Works Inspector shall inspect the public property before and after.

II-2-6.06 Moving of building outside the city

If the applicant proposes to move the building or structure outside the limits of the City of Milpitas, the Building Official shall require as condition to the issuance of a permit by said Building Official that:

6.06-1 The consent of the jurisdiction or jurisdictions through which and to which said building or structure shall be moved and shall be located is or are obtained in writing, and written evidence thereof be filed with the Building Official.

6.06-2 In addition to such other grounds as may be authorized by the provisions of this Title or any other applicable law for the denial of a permit hereunder, the Building Official shall be empowered to deny an application for a permit when the consent of said jurisdiction or jurisdictions cannot be obtained or the conditions imposed by said jurisdictions upon said consent cannot or are not being met by the applicant.

Section 7 Cash Deposit or Surety Bond

II-2-7.01 Amount Set at the Discretion of the Building Official

II-2-7.02 Form and Language

II-2-7.01 Amount Set at the Discretion of the Building Official

The Building Official may require the applicant to deposit cash or a surety bond issued by a surety company authorized to transact a surety business in the State of California with the City to insure compliance with the applicable provisions of law and the conditions imposed on the subject permit. The amount of such bond is to be set at the discretion of the Building Official. The amount shall be 125% of the Building Official's estimated cost of proposed work. At the time of filing the cash or bond with the City, applicant must also execute and file a statement in substantially the following language.

II-2-7.02 Form and Language

"I,_____, applicant, hereby promise to comply with all applicable provisions of law and the conditions imposed on moving permit No._____. By way of guarantee that this work will be done, I herewith deposit with the City cash (or bond) in the amount of _____ dollars and agree that in the event these conditions are not fulfilled within _____ days hereafter the City may in its discretion either cause said conditions to be fulfilled or demolish the building or structure which was moved under authority of said moving permit and charge the costs thereof including reasonable attorneys fees in the event of suit upon said bond plus repair costs of public property to said cash or bond."

Section 8 Liability Insurance Required

II-2-8.01 Conditions

No permit shall be issued under the provisions of this Chapter unless the permittee shall have first taken out and agree to maintain at all times public liability insurance in an amount not less than $100,000.00 for injuries, including wrongful death, to any one person in an amount not less than $300,000.00 on account of one occurrence, and unless also he shall take out and agree to maintain at

all times property damage insurance in an amount no less than $50,000.00. Such insurance shall name the City, its officers and employees as an insured, shall be primary insurance to the full extent thereof and shall not be cancelled or reduced in coverage without thirty (30) days prior notice in writing to City, and a certificate of insurance shall be filed with the Building Official.

Section 9 Sealing the Sewer

II-2-9.01 Conditions

All moving permits shall contain the condition that applicants, when moving from a site within the City:

9.01-1 has sealed or will seal the sewer line at the site from which the building is being moved in the manner prescribed by the political subdivision having jurisdiction thereof, or

9.01-2 has pumped and filled with earth or sand or will pump and fill with earth and sand the sewage disposal system in accordance with State, County or City health requirements.

Section 10 Moving Requirements

II-2-10.01 Safety requirements
II-2-10.02 Traffic
II-2-10.03 Crossing of curbs and walks
II-2-10.04 Permit Limitations, Time
II-2-10.05 Transfer
II-2-10.06 Refunds
II-2-10.07 Additional Buildings
II-2-10.08 Public Nuisances

II-2-10.01 Safety requirements

Red lights shall be maintained by the mover at each corner of the building or structure from ½ hour after sunset until ½ hour before sunrise on such dates as the building is on any public right-of-way or within 15 feet of any surfaced roadway.

II-2-10.02 Traffic

The Police and Fire Department shall be informed of the route of travel and time at least 24 hours before moving.

II-2-10.03 Crossing of curbs and walks

The Public Works Department shall be informed of travel and shall inspect all public facilities such as stop signs, curbs and walks, just before and immediately after the moving.

II-2-10.04 Permit Limitations, Time

Permission to move any building or structure under any permit shall expire 60 days after issuance, except that the Building Official may extend the expiration time and additional 60 days upon request with good reason.

II-2-10.05 Transfer

Permits issued under this Chapter shall not be transferred by the holder thereof to any other person. All movements of buildings authorized by the permit shall be made under the control and supervision of the grantee of the permit.

II-2-10.06 Refunds

No fees required by this Chapter shall be refunded if the moving of a building or structure authorized by the permit is not made.

II-2-10.07 Additional Buildings

Additional buildings or structures or portions of buildings or structures may be moved on a single permit when all are moved from one location or parcel of land to another using the same route.

II-2-10.08 Public Nuisances

Any building or structure moved contrary to any of the provisions of this Chapter is hereby declared to be a public nuisance.

Section 11 Demolition of Buildings

II-2-11.01 Permit Required

11.01-1 No building shall be demolished without first obtaining a permit to do the same.

11.01-2 If the permit is for a building listed on the 1990 Historic Sites Inventory, which is identified in Section 11.01.3 below, the permit shall be issued by the City Council upon application filed with the building division of City. The Building Official shall promptly transmit the permit application to the City Clerk, together with his or her comments and recommendations. The Council may consider the matter on the first available agenda but shall not be required to take action for 30 days following the filing of the application. In granting any permit hereunder, the City Council shall be empowered to:

(a) Impose reasonable conditions to protect the public peace, health, safety and general welfare and to defer issuance of the permit until those conditions are met or secured.

(b) Impose a reasonable delay (not to exceed 180 days) on the issuance of a permit if it finds a building a potential cultural resource within the meaning of Chapter 4, Title XI of the Milpitas Municipal Code.

The provisions of this subsection 11.01-2 shall expire and be of no further effect on May 31, 1992, unless the City Council shall amend this Chapter to make this subsection 11.01-2 permanent.

11.01-3 The following buildings are subject to the permit requirements described in Section 11.01-2:

(a) Dutra Home/Smith Home, 86 N. Main Street;

(b) 27 S. Main Street;

(c) Venturini House/Pashote House, 99 S. Main St.;

(d) Cracolice Store/Pashote Bros. Store, 111-129 S. Main Street;

(e) Kozy Kitchen/Pashote Bros. Meat Market, 114 S. Main Street;

(f) Deniz Home/Crabb Home, 230 S. Main Street;

(g) Cardoza House/Crabb House, 244 S. Main Street;

(h) Caudillo House/Silvera House, 280 S. Main Street;

(i) Evatt Home/Dr. Curlin Home & Office, 290 S. Main Street;

(j) Torres House, 155 Sinnott Lane.

II-2-11.02 Application

Application for such permit shall be filed with the Building Official.

II-2-11.03 Fee

There shall be a fee charged in accordance with the resolution adopted by Council setting forth building inspection fees.

II-2-11.04 Time

Permission to demolish any building shall expire 60 days after issuance of permit.

II-2-11.05 Transfer

Permits issued under this Section shall not be transferred to anyone else.

II-2-11.06 Ownership

Permits shall be issued only to an owner of the building to be demolished or to a state licensed contractor.

Section 12 Additional Requirements
II-2-12.01 Public Improvements
II-2-12.02 Public Utilities
II-2-12.03 Septic Tanks
II-2-12.04 Lots

II-2-12.01 Public Improvements

The public improvements within the street right-of-way shall be inspected before the start of demolition and at the completion by a Public Works Inspector. The applicant shall be held responsible for any damage to Public Improvements.

II-2-12.02 Public Utilities

All public utilities shall be disconnected or removed as required by the agencies concerned.

II-2-12.03 Septic Tanks

Where a sewage disposal system exists it shall be pumped and filled with earth or sand in accordance with State, County and City Health Department requirements.

II-2-12.04 Lots

Lots shall be left clean. All foundations shall be removed, (unless permission is given to rebuild on same) and the lot shall be graded to drain and be free of water holes.

Section 13 Bond Requirement
II-2-13.01 Bond
II-2-13.02 Form and Language

II-2-13.01 Bond

The Building Official shall require the applicant to deposit with the city cash or a surety bond issued by a corporate surety authorized to transact a surety business in the State of California to insure compliance of the job. The amount of such bond shall be set at the discretion of the Building Official. The amount of said bond shall be set at 125% of the estimated cost of the work. The applicant shall file a statement in substantially the following language.

II-2-13.02 Form and Language

"I, _____, applicant, hereby promise to comply with all provisions of law and conditions imposed on demolition permit No._____. By way of guarantee that this job will be completed and the property left clear of debris or other hazards and that any damaged public utilities be repaired, I herewith deposit with the City cash (or bond) in the amount of _____ dollars and agree that in the event that these conditions are not fulfilled within _____ days hereafter the City may in its discretion cause that such remaining material or debris shall be removed and any change to public property be repaired. The cost including reasonable attorney's fees in the event of any suit upon said bond thereof shall be charged to said cash or bond."

Chapter 3 BUILDING CODE

Sections:

Section 1 - Adoption of the Building Code
Section 2 - Amendments to the 2013 California Building Code
Section 3 - Repeal of Conflicting Ordinances
Section 4 - Severability
Section 5 - Effective Date

Section 1 Adoption of the Building Code

II-3-1.01

The 2013 Edition of the California Building Code, Volumes 1 and 2, California Building Standards Code, known as the California Code of Regulations, Title 24, Part 2, incorporating the International Building Code, 2012 Edition, including Appendices C and I published by the International Code Council, with the amendments set forth in Section II-3-2.00 is hereby adopted. There is one copy of said code on file in the office of the Chief Building Official for use and examination by the public.

Section 2 Amendments to the 2013 California Building Code

II-3-2.01
II-3-2.02
II-3-2.03
II-3-2.04
II-3-2.05
II-3-2.06
II-3-2.07
II-3-2.08
II-3-2.09
II-3-2.10 – II-3-2.11 Reserved
II-3-2.12
II-3-2.13
II-3-2.14
II-3-2.15
II-3-2.16 – II-3-2.30 Reserved
II-3-2.31
II-3-2.32 Reserved
II-3-2.33
II-3-2.34
II-3-2.35
II-3-2.36
II-3-2.37

II-3-2.38 Reserved
II-3-2.39

II-3-2.01

The California Building Code, 2013 Edition is amended or changed in the following respects.

II-3-2.02

Chapter 1 Division I of the California Building Code, 2013 Edition, is adopted as amended. Delete sections 1.8.4, 1.8.5, 1.8.7 and 1.8.8.

Chapter 1 Division II of the California Building Code, 2013 Edition is deleted and replaced by Chapter 1 of this Title.

II-3-2.03

Section 402.5 of the California Building Code, 2013 Edition is amended as follows:

Delete exception

Section 403.3 of the California Building Code, 2013 Edition is amended as follows:

Delete exception

Section 404.3 of the California Building Code, 2013 Edition is amended as follows:

Delete all exceptions

Add Section 406.3.6 of the California Building Code, 2013 Edition to read as follows:

406.3.6 Flammable Vapor Ventilation. In enclosed private garages attached to R occupancies, provide 1 sq. ft. of ventilation area located at the lower 12" of garage wall. Said ventilation areas shall be directly communicable with the exterior, but shall not be installed where protection of openings is required.

Section 410.7 of the California Building Code, 2013 Edition is amended as follows:

Delete exceptions 1 and 2

II-3-2.04

Amend Section 717.2.2 of the California Building Code, 2013 Edition to read as follows:

717.2.2 Hazardous Exhaust Ducts. Penetrations of structural elements by hazardous exhaust duct systems shall conform to sections 717.2.2.1 through 717.2.2.4.

717.2.2.1 **Fire Dampers.** Fire Dampers are prohibited in hazardous exhaust ducts.

717.2.2.2 **Floors.** Hazardous exhaust duct systems that penetrate a floor/ceiling assembly shall be enclosed in a fire-resistance-rated shaft constructed in accordance with Section 713 and such enclosure shall have a minimum fire-resistance-rating of not less than the highest fire-resistance-rated floor/ceiling assembly penetrated.

717.2.2.3 **Wall Assemblies.** Hazardous exhaust duct systems that penetrate fire-resistance-rated construction shall be enclosed in a fire-resistance-rated shaft from the point of penetration to the outlet terminal, except where the interior of the duct is equipped with an approved automatic fire

suppression system. Ducts shall be enclosed in accordance with the requirements of Section 713 for shaft construction and such enclosure shall have a minimum fire-resistance-rating of not less than the highest fire-resistance-rated wall assembly penetrated.

717.2.2.4 **Fire Walls.** Hazardous exhaust ducts shall not penetrate a fire wall.

II-3-2.05

Amend Chapter 9 of the 2013 California Building Code as follows:

In addition to Milpitas Municipal Code Title II for local amendments to Fire Protection Systems requirements refer to Milpitas Municipal Code Title V Chapter 300.

II-3.2.06

Amend Section 907.2.11.6 of the California Building Code, 2013 Edition by adding the following:

When the valuation of an addition, alteration or repair to Group R Occupancy exceeds $1,000 and a permit is required, or when one or more sleeping rooms are added or created in existing Group R Occupancies, chimney spark arresters shall be installed. Spark arresters shall be constructed in conformance with Section 2802.

II-3-2.07

Section 1505.1.5 is added to the California Building Code, 2013 Edition, to read as follows:

1505.1.5 Roofing. Class A or Class B roof covering shall be required for all Hillside Construction.

II-3-2.08

Reserved

II-3-2.09

Section 1609.1 of the California Building Code, 2013 Edition is amended by adding the following at the end of the first paragraph:

Hillside construction - construction in hillside areas shall be designed for a minimum wind speed (Vasd) 80 mph and exposure C.

All structures located in the hillside shall conform to minimum requirements of section 2308.10.1.

II-3-2.10

Reserved

II-3-2.11

Reserved

II-3-2.12

Section 1705-3 of the California Building Code, 2013 Edition is amended as follows:

1705.3 Concrete Construction. The special inspections and verifications for concrete construction shall be as required by this section and Table 1705.3.

EXCEPTIONS: Special inspection shall not be required for:

1. Isolated spread concrete footings of buildings three stories or less in height that are fully supported on earth or rock, where the structural design of the footing is based on a specified compressive strength, f'c, no greater than 2,500 pounds per square inch (psi) (17.2 MPa).
2. Continuous concrete footings supporting walls of buildings three stories or less in height that are fully supported on earth or rock where:
   2.1. The footings support walls of light-frame construction;
   2.2. The footings are designed in accordance with Table 1809.7; or
   2.3. The structural design of the footing is based on a specified compressive strength, f'c, no greater than 2,500 pounds per square inch (psi) (17.2 MPa), regardless of the compressive strength specified in the construction documents or used in the footing construction.
3. Nonstructural concrete slabs supported directly on the ground, including prestressed slabs on grade, where the effective prestress in the concrete is less than 150 psi (1.03 Mpa).
4. Concrete patios, driveways and sidewalks on grade.

II-3-2.13

Section 1808.1 of the California Building Code, 2013 Edition is amended as follows:

Add the following to Section 1808.1:

All new foundations required due to building additions to existing occupancies shall be of the same type of foundation system as the existing structure. Additions to R-3 occupancies without an available soils report and where the existing foundation system is a standard "T" type or a pier and grade beam type, may be constructed as described in Section 1808.1.1 through 1808.1.2 at the option of the property owner.

EXCEPTION: A soil report is required for both new residences and additions to residences in Hillside Areas.

1808.1.1 General

Footings for R-3 & U occupancies shall be designed in accordance with the structural provisions of the California Building Code including, where applicable, Table 1809.7 and this Chapter.

1808.1.2 Concrete Pier and Grade Beam Type Foundation

Unless the new foundation has been designed by a California licensed Architect, or Civil or Structural Engineer, the building addition no more than one story in height may be constructed on a pier and grade beam type foundation as described in Section 1808.1.2.1 through 1808.1.2.3.

1808.1.2.1 Concrete Piers

The concrete piers shall be at least 12 inches in diameter, extend at least 6 feet below pad grade, and have a horizontal center-to-center spacing of no greater than 6 feet.

Interior floor supports for a building addition constructed with a raised floor (4-inch by 4-inch post on a nailer plate or equal) shall be supported on concrete piers extended at least 8″ above pad grade. The piers can be extended using a short section of a sonotube.

1808.1.2.2 Grade Beams

The connecting grade beams for a building addition constructed with either a raised floor or a concrete slab-on-grade shall be at least 10 inches wide by 16 inches deep. A 1-1/2 inch void space shall be created at the bottom of the beam between pier locations.

1808.1.2.3 Reinforcement

The minimum reinforcement for grade beams shall be two #4 bars at top and two #4 bars at bottom, with #4 ties at 18-inch on center or #3 ties at 12-inch on center. All bars shall have a minimum 3-inch clear cover of concrete. Splices in reinforcement shall be as follows:

1. Top steel shall be spliced at mid span between piers.
2. Bottom steel shall be spliced over the pier centerline.
3. All splices shall have a minimum length of 40 bar diameters and shall be staggered. Pier reinforcement shall consist of at least three #4 vertical bars with #3 ties at 4″ o.c. for upper 18″ of pier and 8″ o.c. for remaining pier depth. This reinforcement shall extend to within 6 inches of the bottom of the pier holes, shall have a minimum 3-inch cover of concrete between each bar and the sides of the pier hole, and shall be aligned with the centerline of the connecting beam. The vertical bar(s) of each pier shall extend into the grade beam and have a minimum 12-inch standard hook with the top bar of the connecting footing.

Reinforcement is required in concrete floor slabs constructed on grade. The slab shall be reinforced with not less than six inches by six inches by ten-gauge wire mesh or an approved alternate installed at mid height of the slab.

1808.1.3 Interior Concrete Slab-on-Grade

Interior concrete slab-on-grade shall be at least 4 inches thick and be constructed on a capillary break that has been placed on a stabilized subgrade and is capped with a vapor retarder that shall be used to retard vapor transmission through the floor slab. The capillary break should be at least 4 inches thick and consist of a free-draining material, such as 3/8″ pea gravel or a permeable aggregate complying with CALTRANS Standard Specifications, Section 68, Class 1, Type A or Type B. The membrane vapor retarder should be a high quality membrane such as 6 mil polyethylene with joints lapped not less than 6 inches or other approved equivalent methods or materials. A minimum 2-inch-thick protective cushion of sand or capillary break material should be placed over the membrane. The slab shall be reinforced with not less than 6×6 ten gauge wire mesh or an approved alternative installed at mid height of the slab.

Where interior stud wall loads are to be carried by the floor slab, the slab section shall be thickened to 12 inches and founded directly on the undisturbed sub-grade.

The soil sub-grade should be brought to moisture equilibrium by covering it with an impervious membrane for a minimum period of two weeks before placement of the concrete floor slab. The covering should be equivalent to at least a 6 mil polyethylene. Rock to be used as capillary break may be used to keep the basal membrane in place.

II-3-2.14

Delete Section 1905.1.8 of the California Building Code, 2013 Edition and replace with the following:

1905.1.8 ACI 318-11, section 22.10. Delete ACI 318, Section 22.10, and replace with the following:

22.10 - Plain concrete in structures assigned to seismic design category C, D, E or F.

22.10.1- Structures assigned to Seismic Design Category C, D, E or F shall not have elements of structural plain concrete, except as follows:

(a) Isolated footings of plain concrete supporting pedestals or columns are permitted, provided the projection of the footing beyond the face of the supported member does not exceed the footing thickness.

Exception: In detached one and two-family dwelling three stories or less in height, the projection of the footing beyond the face of the supported member is permitted to exceed the footing thickness.

(b) Plain concrete footing supporting walls are permitted, provided the footings have at least two continuous longitudinal reinforcing bars. Bars shall not be smaller than no. 4 and shall have a total area of not less than 0.002 times the gross cross-sectional area of the footing. A minimum of one bar shall be provided at the top and bottom of the footing. Continuity of reinforcement shall be provided at corners and intersections.

II-3-2.15

Section 2301.2, method 3 of California Building Code, 2013 Edition is revised as follows:

Delete exception

II-3-2.16 – II-3-2.30

Reserved

II-3-2.31

Add section 2305.1.3 to California Building Code, 2013 Edition to read as follows:

Amend section 4.3.4 of AF&PA SDPWS, 2008 Edition as follows:

Delete rows 5 & 6 and footnote 2 of Table 4.3.4

II-3-2.32

Reserved

II-3-2.33

Section 2306.3 of the California Building Code, 2013 Edition is amended as follows:

Add to Section 2306.3 the following:

Shear walls sheathed with Portland cement plaster, gypsum lath, gypsum sheathing or gypsum board shall not be used to resist seismic forces in structures assigned to Seismic Design Category D, E or F.

Exception: Expanded metal or woven wire lath and Portland cement plaster on studs spaced at 16 inches (406 mm) on center installed per Table 2306.3(3) is permitted for use in one story structures of R-3 and U occupancies in Seismic Design Category D.

II-3-2.34

Section 2308.1 of The California Building Code, 2013 Edition is adopted with amendments as follows:

Section 2308.1 General. The requirements of this section are intended for conventional light-frame construction. Other methods are permitted to be used, provided a satisfactory design is submitted showing compliance with other provisions of this code. Interior nonload-bearing partitions, ceilings and curtain walls of conventional light-frame construction are not subject to the limitations of this section. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories above grade plane in height with a separate means of egress and their accessory structures shall comply with the California Residential Code.

Section 2308.3.4 of The California Building Code, 2013 Edition is adopted with amendments as follows:

Section 2308.3.4 Braced wall line support. Braced wall lines shall be supported by continuous foundations.

Exceptions:

1. One-story buildings with maximum plan dimension not exceeding 50 feet (15240 mm), may have continuous foundations located at exterior braced wall lines only.
2. Two-story buildings with a maximum plan dimension not exceeding 50 feet (15240 mm) may have braced wall lines supported on continuous foundations at the exterior walls only, provided:
    a) Cripple walls do not exceed 4 feet (1219 mm) in height; and
    b) Where the first story is supported on a raised wood framed floor, the interior braced wall panels are directly supported by either doubled joists, continuous 4x blocking, or minimum 4x floor beams.

Section 2308.12.4 of The California Building Code, 2013 Edition is adopted with amendments by adding the following to the end of the first paragraph:

Wall studs shall be spaced a maximum of 16 inches on center. Nailing shall be minimum 8d common placed at least 3/8 inches from panel edges and spaced not more than 6 inches on center, and 12 inches on center along intermediate framing members.

Footnotes b and c in Table 2308.12.4 are amended as follows:

b. G-P = fiberboard, particleboard, lath and plaster; S-W = wood structural panels and diagonal wood sheathing.

c. Nailing as specified below shall occur at all panel edges at studs, at top and bottom plates and, where occurring, at blocking:

For Portland cement plaster, No. 11 gage (0.120 inch) by 1½ inches long, 7/16 inch head at 6 inches on center;

For fiberboard and particleboard, No. 11 gage (0.120 inch) by 1½ inches long, 7/16 inch head, galvanized nails at 3 inches on center.

Section 2308.12.5 of the California Building Code, 2013 Edition is adopted with amendments as follows:

Attachment of sheathing. Fastening of braced wall panel sheathing shall not be less than that prescribed in Table 2308.12.4 or 2304.9.1. Wall sheathing shall not be attached to framing members by adhesives. All braced wall panels shall extend to the roof sheathing and shall be attached to parallel roof rafters or blocking above with framing clips (18 gauge minimum) spaced at maximum 24 inches (6096 mm) on center with four 8d nails per leg (total eight 8d nails per clip). Braced wall panels shall be laterally braced at each top corner and at maximum 24 inch (6096 mm) intervals along the top plate of discontinuous vertical framing.

II-3-2.35

Section 2505 of the California Building Code, 2013 Edition, is amended as follows:

Deleted in its entirety.

II-3-2.36

Section 2901.2 is added to the California Building Code, 2013 Edition, to read as follows:

Food Consumed on the Premises

Not withstanding anything to the contrary contained in or inferable from the applicable California Building Code, or in this Chapter, every establishing selling food for consumption on the premises of said establishment (at tables or counters or otherwise) shall have at least one (1) toilet room (with toilet and wash basin) for the use of employees and customers. The provisions of this Section shall not apply to an establishment which sells food exclusively for take-out (i.e. consumption off the premises) and which does not have tables, counters or other places or facilities for customers to consume food on the premises excepting that employees of all food facilities shall have access to toilet and hand-washing facilities as required by this code and as required by the Health Department.

II-3-2.37

Section 3310.1 of California Building Code, 2013 Edition, is amended as follows:

3310.1 Stairways Required. All floor levels above the first story in new multi-story buildings that require 2 exit stairs shall be provided with at least two usable exit stairways (temporary or permanent) after the floor decking is installed. The stairways shall be continuous and discharge to grade level. Stairways serving more than two floor levels shall be enclosed (with openings adequately protected) after exterior walls/windows are in place. Exit stairs in new and in existing,

occupied buildings during construction shall be lighted and maintained clear of debris and construction materials at all times.

Exception: For new multi-story buildings, one of the required exit stairs may be obstructed on not more than two contiguous floor levels for the purposes of stairway construction (i.e., installation of gypsum board, painting, flooring, etc.).

II-3-2.38

Reserved

II-3-2.39

Section 3405 of California Building Code 2013 is amended as follows:

Add section 3405.2.4 to read as follows:

3405.2.4 Seismic Evaluation and Design Procedures for Repairs. The seismic evaluation and design shall be based on the procedures specified in the California Building Code, ASCE 31 Seismic Evaluation of Existing Buildings (for evaluation only) or ASCE 41 Seismic Rehabilitation of Existing Buildings. The procedures contained in Appendix A2, A3, A4 and A5 of the International Existing Building Code shall be permitted to be used as specified in Section 3405.2.4.

3405.2.4.1 Compliance with CBC level seismic forces. Where compliance with the seismic design provisions of the California Building Code is required, the procedures shall be in accordance with one of the following:

1. One-hundred percent of the values in the California Building Code. Where the existing seismic force-resisting system is a type that can be designated as "Ordinary," the values of R, Ω_o, and C_d used for analysis in accordance with Chapter 16 of the California Building Code shall be those specified for structural systems classified as "Ordinary" in accordance with Table 12.2-1 of ASCE 7, unless it is demonstrated that the structural system will provide performance equivalent to that of a "Detailed," "Intermediate" or "Special" system.
2. Compliance with ASCE 41 using both BSE-1 and BSE-2 earthquake hazard levels and the corresponding performance levels in Table 3405.2.4.1.

TABLE 3405.2.4.1
PERFORMANCE CRITERIA FOR CBC LEVEL SEISMIC FORCES

RISK CATEGORY (BASED ON CBC TABLE 1604.5)	PERFORMANCE LEVEL FOR USE WITH ASCE 31 AND WITH ASCE 41 BSE-1 EARTHQUAKE HAZARD LEVEL	PERFORMANCE LEVEL FOR USE WITH ASCE 41 BSE-2 EARTHQUAKE HAZARD LEVEL
I	Life Safety (LS)	Collapse Prevention (CP)
II	Life Safety (LS)	Collapse Prevention (CP)

III	Note a	Note a
IV	Immediate Occupancy (IO)	Life Safety (LS)

a. Acceptance criteria for Occupancy Category III shall be taken as 80 percent of the acceptance criteria specified for Occupancy Category II performance levels, but need not be less than the acceptance criteria specified for Occupancy Category IV performance levels.

3405.2.4.2 Compliance with reduced CBC level seismic forces. Where seismic evaluation and design is permitted to meet reduced California Building Code seismic force levels, the procedures used shall be in accordance with one of the following:

1. The California Building Code using 75 percent of the prescribed forces. Values of R, Ω_o, and C_d used for analysis shall be as specified in Section 3405.2.4.1 Item 1.
2. Structures or portions of structures that comply with the requirements of the applicable chapter in Appendix A2, A3, A4 and A5 of the International Existing Building Code as specified in Items 2.1 through 2.5 below shall be deemed to comply with this section.
   2.1. The seismic evaluation and design of unreinforced masonry bearing wall buildings in Risk Category I or II are permitted to be based on the procedures specified in Appendix Chapter A1 of the California Existing Building Code, 2013 Edition.
   2.2. Seismic evaluation and design of the wall anchorage system in reinforced concrete and reinforced masonry wall buildings with flexible diaphragms in Risk Category I or II are permitted to be based on the procedures specified in Appendix Chapter A2.
   2.3. Seismic evaluation and design of cripple walls and sill plate anchorage in residential buildings of light-frame wood construction in Risk Category I or II are permitted to be based on the procedures specified in Appendix Chapter A3.
   2.4. Seismic evaluation and design of soft, weak, or open-front wall conditions in multiunit residential buildings of wood construction in Risk Category I or II are permitted to be based on the procedures specified in Appendix Chapter A4.
   2.5. Seismic evaluation and design of concrete buildings in all Risk Categories are permitted to be based on the procedures specified in Appendix Chapter A5.
3. Compliance with ASCE 31 based on the applicable performance level as shown in Table 3405.2.4.2. It shall be permitted to use the BSE-1 earthquake hazard level as defined in ASCE 41 and subject to the limitations in item 4 below.
4. Compliance with ASCE 41 using the BSE-1 Earthquake Hazard Level defined in ASCE 41 and the performance level as shown in Table 3405.2.4.2. The design spectral response acceleration parameters S_{xs} and S_{x1} specified in ASCE 41 shall not be taken less than 75 percent of the respective design spectral response acceleration parameters S_{DS} and S_{D1} defined by the California Building Code and its reference standards.

TABLE 3405.2.4.2
PERFORMANCE CRITERIA FOR REDUCED CBC LEVEL SEISMIC FORCES

RISK CATEGORY	PERFORMANCE LEVEL FOR USE WITH ASCE 31	PERFORMANCE LEVEL FOR USE WITH ASCE 41 BSE-1

(BASED ON CBC TABLE 1604.5)		EARTHQUAKE HAZARD LEVEL
I	Life Safety (LS)	Life Safety (LS)
II	Life Safety (LS)	Life Safety (LS)
III	Note a, Note b	Note a
IV	Immediate Occupancy (IO)	Immediate Occupancy (IO)

a. Acceptance criteria for Risk Category III shall be taken as 80 percent of the acceptance criteria specified for Risk Category II performance levels, but need not be less than the acceptance criteria specified for Risk Category IV performance levels.

b. For Risk Category III, the ASCE screening phase checklists shall be based on the life safety performance level.

3405.2.4.3 Referenced Standards

Standard Referenced Number	TITLE	Reference In Code Section Number
ASCE 31-03	Seismic Evaluation of Existing Buildings	3405.2.4.1, TABLE 3405.2.4.1 3405.2.4.2, TABLE 3405.2.4.2
ASCE 41-06	Seismic Rehabilitation of Existing Buildings including Supplement No. 1	3405.2.4.1, TABLE 3405.2.4.1 3405.2.4.2, TABLE 3405.2.4.2

Section 3 Repeal of Conflicting Ordinances

II-3-3.01

Upon adoption of each new California Building Code, as amended, the previous adopted California Building Code is superseded in its entirety.

Section 4 Severability

II-3-4.01

The City Council declares that, should any provision, section, paragraph, sentence, or word of this amendment be rendered or declared invalid by a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of said Chapter hereby adopted shall remain in full force and effect.

Section 5 Effective Date

II-3-5.01

This Chapter shall become effective on January 1, 2014.

Chapter 3.5 RESIDENTIAL CODE

Sections:

Section 1 Adoption of the Residential Code
Section 2 - Amendments to the 2013 California Residential Code
Section 3 - Repeal of Conflicting Ordinances
Section 4 - Severability
Section 5 - Effective Date

Section 1 Adoption of the Residential Code

II-3.5-1.01

The 2013 Edition of the California Residential Code, California Building Standards Code, known as the California Code of Regulations, Title 24, Part 2.5 incorporating the International Residential Code, 2012 Edition, including Appendix H published by the International Code Council, with the amendments set forth in Section II-3.5-2.00 is hereby adopted. There is one copy of said code on file in the office of the Chief Building Official for use and examination by the public.

Section 2 Amendments to the 2013 California Residential Code
II-3.5-2.01
II-3.5-2.02
II-3.5-2.03
II-3.5-2.04
II-3.5-2.05
II-3.5-2.06

II-3.5-2.01

The California Residential Code, 2013 Edition is amended or changed in the following respects.

II-3.5-2.02

Chapter 1 Division I of the California Residential Code, 2013 Edition, is adopted as amended. Delete sections 1.8.4, 1.8.5, 1.8.7 and 1.8.8.

Delete Chapter 1 Division II of the California Residential Code, 2013 Edition.

II-3.5-2.03

Amend Section R301.1.1 of the California Residential Code, 2013 Edition as follows:

Delete Item 1 in this section.

Amend Table R301.2(1) of the California Residential Code, 2013 Edition as follows:

Ground Snow Load	Wind Design		Seismic Design Category	Subject to Damage From			Winter Design Temp	Ice Barrier Underlayment Required	Flood Hazard	Air Freezing Index	Mean Annual Temp
	Speed (mph)	Topographic Effects		Weathering	Frost line depth	Termite					
N/A	70[a]	No	D_2	Negligible	N/A	Yes	32F	No	See Flood Zone Map	0	59.7F

a. **Hillside construction** - construction in hillside areas shall be designed for minimum wind speed (Vasd) 80 mph and exposure C. All structures located in the hillside shall conform to minimum requirements of Section R802.11.

Add Section R303.10 of the California Residential Code, 2013 Edition to read as follows:

R303.10 Flammable Vapor Ventilation. In enclosed private garages attached to R occupancies, provide 1 sq. ft. of ventilation area located at the lower 12" of garage wall. Said ventilation areas shall be directly communicable with the exterior, but shall not be installed where protection of openings is required.

Amend Section R314.6.2 Item (a) of the California Residential Code, 2013 Edition by adding the following:

3. When the valuation of an addition, alteration or repair to Group R Occupancy exceeds $1,000 and a permit is required, or when one or more sleeping rooms are added or created in existing Group R Occupancies, chimney spark arresters shall be installed. Spark arresters shall be constructed in conformance with Section R1003.9.2.

Add Section R329 to the California Residential Code, 2013 Edition to read as follows:

R329 Sound Transmission. For sound transmission control between attached dwelling units, see Section 1207 of the California Building Code, 2013 Edition.

II-3.5-2.04

Amend Section R401.1 of the California Residential Code, 2013 Edition to read as follows:

R401.1 Application. The provisions of this Chapter shall control the design and construction of the foundation and foundation spaces for all buildings. In addition to the provisions of this chapter, the design and construction of foundations in areas prone to flooding as established by Table 301.2(1) shall meet the provisions of Section R322.

Delete Section R402.1, R402.1.1, R402.1.2 of the California Residential Code, 2013 Edition.

Amend Section R403.1 of the California Residential Code, 2013 Edition as follows:

Delete "crushed stone footings" and "wood foundations" in the first paragraph.

Add Milpitas Municipal Code Section II-3-2.13 wording at the end of the paragraph.

Amend Section R403.1.3 of the California Residential Code, 2013 Edition as follows:

Amend the first paragraph to read as follows:

R403.1.3 Seismic reinforcing. Concrete footings located in Seismic Design Categories D_0, D_1 and D_2, as established in Table R301.2 (1), shall have minimum reinforcement of at least one continuous longitudinal reinforcing bars not smaller than No. 4 bars at top and bottom. Bottom reinforcement shall be located a minimum of 3 inches (76 mm) clear from the bottom of the footing.

II-3.5-2.05

Amend Table R602.10.3(3) of the California Residential Code, 2013 Edition as follows:

Add a footnote notation "e" in the title of the Table to read as follows:

TABLE R602.10.3(3)[a,b,c,d,e]

Add a new footnote "e" to the end of the Table to read as follows:

e. In Seismic Design Categories D_0, D_1, and D_2, Method GB is not permitted and the use of Methods PCP, SFB, HPS is limited to one-story single family dwellings and accessory structures.

Section R602.10.4.4 is added to the California Residential Code, 2013 Edition, to read as follows:

R602.10.4.4 Limits on methods GB, PCP, SFB and HPS. In Seismic Design Categories D_0, D_1, and D_2, Method GB is not permitted for use as intermittent braced wall panels, but gypsum board is permitted to be installed when required by this Section to be placed on the opposite side of the studs from other types of braced wall panel sheathing. In Seismic Design Categories D_0, D_1, and D_2,

the use of Methods PCP, SFB and HPS is limited to one-story single family dwellings and accessory structures.

Amend Section R602.10.9.1 Exception 2 of the California Residential Code, 2013 Edition to read as follows:

2. First story braced wall panels are supported on doubled floor joists, continuous 4x blocking or minimum 4x floor beams.

II-3.5-2.06

Section R902.1.5 is added to the California Residential Code, 2013 Edition, to read as follows:

R902.1.5 Roofing. Class A or Class B roof covering shall be required for all Hillside Construction.

Section 3 Repeal of Conflicting Ordinances

II-3.5-3.01

Upon adoption of each new California Residential Code, as amended, the previous adopted California Residential Code is superseded in its entirety.

Section 4 Severability

II-3.5-4.01

The City Council declares that, should any provision, section, paragraph, sentence, or word of this amendment be rendered or declared invalid by a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of said Chapter hereby adopted shall remain in full force and effect.

Section 5 Effective Date

II-3.5-5.01

This Chapter shall become effective on January 1, 2014.

Chapter 5 MECHANICAL CODE

Sections:

Section 1 – Adoption of the Mechanical Code
Section 2 - Amendments to the 2013 California Mechanical Code
Section 3 - Repeal of Conflicting Ordinances
Section 4 - Severability

Section 5 - Effective Date

Section 1 Adoption of the Mechanical Code

II-5-1.01

The 2013 Edition of the California Mechanical Code, California Building Standards Code, known as the California Code of Regulations, Title 24, Part 4, incorporating the Uniform Mechanical Code, 2012 Edition including Appendix A, Appendix B, Appendix C, Appendix D, Appendix F published by the International Association of Plumbing and Mechanical Officials, with the amendments set forth in Section II-5-2.00 is hereby adopted. There is one copy of said code on file in the office of the Chief Building Official for use and examination by the public.

Section 2 Amendments to the 2013 California Mechanical Code

II-5-2.01
II-5-2.02
II-5-2.03

II-5-2.01

The California Mechanical Code, 2013 Edition, is amended or changed in the following respects.

II-5-2.02

Chapter 1 Division I of the California Mechanical Code, 2013 Edition, is adopted as amended. Delete sections 1.8.4, 1.8.5, 1.8.7 and 1.8.8

Chapter 1 Division II of the California Mechanical Code, 2013 Edition, consisting of administrative provisions is deleted in its entirety.

II-5-2.03

Section 315.2 shall be added to the California Mechanical Code, 2013 Edition, to read as follows:

315.2 Non-Essential Use of Domestic Water. City water used for cooling purposes is prohibited unless fifty (50) percent or more is recycled.

Section 3 Repeal of Conflicting Ordinances

II-5-3.01

Upon adoption of each new California Mechanical Code, the previously adopted California Mechanical Code is superseded in its entirety.

Section 4 Severability

II-5-4.01

The City Council declares that, should any provision, section, paragraph, sentence, or word of this amendment be rendered or declared invalid by a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of said Chapter hereby adopted shall remain in full force and effect.

Section 5 Effective Date

II-5-5.01

This Chapter shall become effective on January 1, 2014.

Chapter 6 ELECTRICAL CODE

Sections:

Section 1 - Adoption of the Electrical Code
Section 2 - Amendments to the 2013 California Electrical Code
Section 3 - Repeal of Conflicting Ordinances
Section 4 - Severability
Section 5 - Effective Date

Section 1 Adoption of the Electrical Code

II-6-1.01

The 2013 Edition of the California Electrical Code, California Building Standards Code, known as the California Code of Regulations, Title 24, Part 3, incorporating the National Electrical Code, 2011 Edition including Annex A, Annex B, Annex C, Annex D, Annex E and Annex F, published by the National Fire Protection Association with the amendments set forth in Section II-6-2.00 is hereby adopted. There is one copy of said code on file in the office of the Chief Building Official for use and examination by the public.

Section 2 Amendments to the 2013 California Electrical Code
II-6-2.01
II-6-2.02
II-6-2.03
II-6-2.04
II-6-2.05

II-6-2.01

The California Electrical Code, 2013 Edition is amended or changed in the following respects.

II-6-2.02

Section 230.2 of the California Electrical Code, 2013 Edition, is amended 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.

II-6-2.03

Subsection 230.70(A) of the California Electrical Code, 2013 Edition, is amended by adding sub-subsection (4) to read as follows:

(4) **Disconnect Location.** The building main service disconnect and/or disconnects shall be installed on the first floor level of the building.

II-6-2.04

Section 250.50 of the California Electrical Code, 2013 Edition, is amended 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.

II-6-2.05

Section 300.1 of the California Electrical Code, 2013 Edition, is amended by adding subsection (D) to read as follows:

300.1(D). Underground Raceways. All underground raceways shall be provided with an equipment grounding conductor unless indicated elsewhere in this code.

Section 3 Repeal of Conflicting Ordinances

II-6-3.01

Upon adoption of each new California Electrical Code, the previously adopted California Electrical Code is superseded in its entirety.

Section 4 Severability

II-6-4.01

The City Council declares that, should any provision, section, paragraph, sentence, or word of this amendment be rendered or declared invalid by a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of said Chapter hereby adopted shall remain in full force and effect.

Section 5 Effective Date

II-6-5.01

This Chapter shall become effective on January 1, 2014.

Chapter 7 PLUMBING CODE

Sections:

Section 1 - Adoption of the Plumbing Code
Section 2 - Amendments to the 2013 California Plumbing Code
Section 3 - Repeal of Conflicting Ordinances
Section 4 - Severability
Section 5 - Effective Date

Section 1 Adoption of the Plumbing Code

II-7-1.01

The 2013 Edition of the California Plumbing Code, California Building Standards Code, known as the California Code of Regulations, Title 24, Part 5, incorporating the Uniform Plumbing Code, 2012 Edition, including Appendix A, Appendix B, Appendix D and Appendix I published by the International Association of Plumbing and Mechanical Officials, with the amendments set forth in Section II-7-2.00 is hereby adopted. There is one copy of said code on file in the office of the Chief Building Official for use and examination by the public.

Section 2 Amendments to the 2013 California Plumbing Code
II-7-2.01
II-7-2.02
II-7-2.03

II-7-2.01

The California Plumbing Code, 2013 Edition, is amended or changed in the following respects.

II-7-2.02

Chapter 1 Division I of the California Plumbing Code, 2013 Edition, is adopted as amended. Delete sections 1.8.4, 1.8.5, 1.8.7 and 1.8.8.

Chapter 1 Division II of the California Plumbing Code, 2013 Edition, consisting of administrative provisions is deleted in its entirety.

II-7-2.03

Section 602.5 is added to the California Plumbing Code, 2013 Edition, to read as follows:

602.5. Non Essential Use of Domestic Water. City water use for cooling purposes is prohibited unless fifty (50) percent or more is recycled.

Section 3 Repeal of Conflicting Ordinances

II-7-3.01

Upon adoption of each new California Plumbing Code, as amended, the previous adopted California Plumbing Code is superseded in its entirety.

Section 4 Severability

II-7-4.01

The City Council declares that, should any provision, section, paragraph, sentence, or word of this amendment be rendered or declared invalid by a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of said Chapter hereby adopted shall remain in full force and effect.

Section 5 Effective Date

II-7-5.01

This Chapter shall become effective on January 1, 2014.

Chapter 11 ENERGY CODE

Sections:

Section 1 - Adoption of the Energy Code
Section 2 - Reserved
Section 3 - Repeal of Conflicting Ordinances
Section 4 - Severability
Section 5 - Effective Date

Section 1 Adoption of the Energy Code

II-11-1.01

The 2013 Edition of the California Energy Code known as the California Code of Regulations, Title 24, Part 6, published by the International Code Council. There is one copy of said code on file in the office of the Chief Building Official for use and examination by the public.

Section 2 Reserved

Section 3 Repeal of Conflicting Ordinances

II-11-3.01

Upon adoption of each new California Energy Code, the previously adopted California Energy Code is superseded in its entirety.

Section 4 Severability

II-11-4.01

The City Council declares that, should any provision, section, paragraph, sentence, or word of this amendment be rendered or declared invalid by a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of said Chapter hereby adopted shall remain in full force and effect.

Section 5 Effective Date

II-11-5.01

This Chapter shall become effective on January 1, 2014.

Chapter 12 CODE FOR ABATEMENT OF DANGEROUS BUILDINGS

Sections:

Section 1 - Adoption of the Uniform Code for Abatement of Dangerous Buildings
Section 2 - Amendments to the 1997 Uniform Code for Abatement of Dangerous Buildings
Section 3 - Repeal of Conflicting Ordinances
Section 4 - Severability
Section 5 - Effective Date

Section 1 Adoption of the Uniform Code for Abatement of Dangerous Buildings

II-12-1.01

The Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, published by the International Conference of Building Officials, is hereby adopted by reference as the Abatement of Dangerous Buildings Code for the City of Milpitas with amendments as identified herein. There is one copy of said code on file in the office of the Chief Building Official for use and examination by the public.

Section 2 Amendments to the 1997 Uniform Code for Abatement of Dangerous Buildings

II-12-2.01
II-12-2.02
II-12-2.03
II-12-2.04

II-12-2.01

The Uniform Code for Abatement of Dangerous Buildings, 1997 Edition, is amended or changed in the following respects.

II-12-2.02

Applicability. Notwithstanding any other provision in this Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, it shall be applicable only to non-residential buildings in the City of Milpitas.

II-12-2.03

Subsection 201.3, Section 205, Chapter 5 and Chapter 6 of the Uniform Code for Abatement of Dangerous Buildings, 1997 Edition, are deleted in their entirety.

II-12-2.04

Section 403 (3) of the Uniform Code for Abatement of Dangerous Buildings, 1997 Edition, is added in its entirety to read as follows:

Structural Analysis and Repair of Potentially Hazardous Buildings and Structures. If the Chief Building Official has determined that a building or structure is potentially hazardous, as defined in Government Code Sec. 8875, the order shall require that structural analysis be submitted within 270 days of the order and that repair or rehabilitation shall be commenced within 60 days thereafter and that the work be completed within such time as the Chief Building Official shall determine is reasonable. Where applicable, structural analysis, design, and plans shall be in accordance with the current edition of California Existing Building Code and International Building Code Appendices A2, A3, A4 and A5.

Section 3 Repeal of Conflicting Ordinances

II-12-3.01

Upon adoption of each new Abatement of Dangerous Buildings Code, as amended, the previous adopted Uniform Code for Abatement of Dangerous Buildings is superseded in its entirety.

Section 4 Severability

II-12-4.01

The City Council declares that, should any provision, section, paragraph, sentence, or word of this amendment be rendered or declared invalid by a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of said Chapter hereby adopted shall remain in full force and effect.

Section 5 Effective Date

II-12-5.01

The ordinance codified in this Chapter shall become effective on January 1, 2014

Chapter 13 GRADING, EXCAVATION, PAVING & EROSION CONTROL

Sections:

Section 1-Title
Section 2-Purpose
Section 3-Scope
Section 4-Permits Required
Section 5-Hazards
Section 6-Definitions
Section 7-Grading Permit requirements
Section 8-Site Map and Grading Plan
Section 9-Specifications Covering Construction and Material Requirements

Section 10-Erosion Control
Section 11-Work Schedule
Section 12-Reserved
Section 13-Cuts
Section 14-Fills
Section 15-Setbacks
Section 16-Drainage and Terracing
Section 17-Lot Improvement, Paving of Driveways, Parking Lots
Section 18-Paving Standards
Section 19—22 Reserved
Section 23-Design Standard—General
Section 24-Native Vegetation
Section 25-Planting Time Limits
Section 26-Drainage Controls
Section 27-Slope Construction
Section 28-Slope Surface Stabilization
Section 29-Vegetation Maintenance
Section 30-Protection of Watercourses
Section 31-Sediment Control
Section 32-Grading Inspection
Section 33-Completion of Work
Section 34-Conditions of Approval or Denial of Grading Permit
Section 35-Review and Approval
Section 36-Enforcement and Inspection
Section 37-Grading and Erosion Control Inspection
Section 38-Notification of Completion
Section 39-Applicant's Responsibilities
Section 40-Permit Suspension
Section 41-Abatement of Hazards
Section 42-Performance Bond
Section 43-Appeal
Section 44-Penalties
Section 45-Fees
Section 46-Grading Permit Fees
Section 47-Reserved

Section 1 Title

II-13-1 Title

This Chapter shall be known as the City of Milpitas Grading, Excavation, Paving and Erosion Control Ordinance.

Section 2 Purpose

II-13-2 Purpose

The purpose of this Chapter is to set forth rules, regulations, and controls on grading, excavation, paving and earth work construction including cuts, fills, embankments, the cutting and clearing of vegetation, the revegetation of cleared areas, the management of drainage and measures to protect exposed soil surfaces in order to safeguard water ways, promote the public health, safety and welfare and to protect public and private property. And further to encourage the harmonious blend between the built environment and the natural environment, to implement the City of Milpitas adopted General Plan and to insure that the design, scope and location of grading and related activities cause minimum disturbance to terrain and natural features, to provide erosion control and to prevent sedimentation or damage to off-site property.

Section 3 Scope

II-13-3 Scope

This Chapter sets forth rules and regulations to control excavation, grading, paving and earth work construction, including fills and embankments; and erosion control; establishes the administrative procedure for issuance of permits; and provides for approval of plans and inspection of grading construction.

Section 4 Permits Required

II-13-4 Permits Required

01. No person shall do any grading, filling, excavation, or clearing of natural vegetation without first having obtained a grading permit from the Building and Safety except for the following:

.01 An excavation below finished grade for swimming pools, basements and footings of a building, retaining wall pier holes or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation nor exempt any excavation having an unsupported height greater than 5 feet after the completion of such structure.

.02 Cemetery graves.

.03 Refuse disposal sites controlled by other regulations.

.04 Excavations for wells or tunnels or utilities.

.05 Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate or clay where established and provided for by law, provided such operations do not affect the lateral support or increase the stresses in, or pressure upon any adjacent or contiguous property.

.06 Exploratory excavations under the direction of soil engineers or engineering geologists.

.07 An excavation which (a) is less than 2 feet in depth, and (b) which does not create a cut slope greater than 5 feet in height and steeper than two horizontal to one vertical, (c) and does not result in the movement of more than (50) cubic yards of material.

.08 A fill less than 1 foot in depth and placed on natural terrain with a slope flatter than five horizontal to one vertical, and less than 2 feet in depth, not intended to support structures, and which does not exceed 50 cubic yards on any one lot and does not obstruct a drainage course.

02. Fees shall be as set by Resolution of the City Council of Milpitas.

Section 5 Hazards

II-13-5 Hazards

Whenever the Chief Building Official determines that any existing excavating or embankment or fill on private property has become a hazard to life and limb, or endangers property, or adversely affects the safety, use or stability of a public way or drainage channel, the owner of the property upon which the excavation or fill is located, the Lessee thereof or other person or agent in control of said property, upon receipt of notice in writing from the Chief Building Official, shall within the period specified therein, repair or eliminate such excavation or embankment so as to eliminate the hazard and be in conformance with the requirements of this Chapter.

Section 6 Definitions

II-13-6 Definitions

For the purposes of this Chapter the definitions listed hereunder shall be construed as specified in this section.

.01 APPROVAL shall mean a written engineering or geological opinion concerning the progress and completion of the work.

.02 AS-GRADED is the surface conditions extant on completion of grading.

.03 BEDROCK is in-place solid rock.

.04 BENCH is a relatively level step excavated into earth material on which fill is to be placed.

.05 BORROW is earth material acquired from an off-site location for use in grading on a site.

.06 BUILDING PAD, the ground under the building.

.07 CIVIL ENGINEER shall mean a professional engineer registered in the state to practice in the field of civil works.

.08 CIVIL ENGINEERING shall mean the application of the knowledge of the forces of nature, principles of mechanics and the properties of materials to the evaluation, design and construction of civil work for the beneficial uses of mankind.

.09 COMPACTION is the densification of a fill by mechanical means.

.10 CUT. See Excavation.

.11 DOWNDRAIN. A device for collecting water from a swale or ditch located on or above a slope, and safely delivering it to an approved drainage facility.

.12 EARTH MATERIAL is any rock, natural soil or fill and/or any combination thereof.

.13 ENGINEERING GEOLOGIST shall mean a geologist experienced and knowledgeable in engineering geology.

.14 ENGINEERING GEOLOGY shall mean the application of geologic knowledge and principles in the investigation and evaluation of naturally occurring rock and soil for use in the design of civil works.

.15 EROSION is the wearing away of the ground surface as a result of the movement of wind, water and/or ice.

.16 EXCAVATION is the mechanical removal of earth material. Also referred to as a CUT.

.17 FILL is a deposit of earth material placed by artificial means.

.18 GRADE shall mean the vertical location of the ground surface.

.19 EXISTING GRADE is the grade prior to grading.

.20 ROUGH GRADE is the stage at which the grade approximately conforms to the approved plan.

.21 FINISH GRADE is the final grade of the site which conforms to the approved plan.

.22 GRADING is any excavating or filling or combination thereof.

.23 KEY is a designed compacted fill placed in a trench excavated in earth material beneath the toe of a proposed fill slope.

.24 SITE is any lot or parcel of land or contiguous combination thereof, under the same ownership, where grading is performed or permitted.

.25 SLOPE is an inclined ground surface the inclination of which is expressed as a ratio of horizontal distance to vertical distance.

.26 SOIL is naturally occurring superficial deposits overlying bedrock.

.27 SOIL ENGINEER shall mean a Civil Engineer experienced and knowledgeable in the practice of soil engineering.

.28 SOIL ENGINEERING shall mean the application of the principles of soil mechanics in the investigation, evaluation and design of civil works involving the use of earth materials and the inspection and testing of the construction thereof.

.29 TERRACE is a relatively level step constructed in the face of a graded slope surface for drainage and maintenance purposes.

Section 7 Grading Permit Requirements

II-13-7 Grading Permit Requirements

.01 **Permits Required.** Except as exempted in Section II-13-4 of this Chapter, no person shall do any grading without first obtaining a grading permit from the Building and Safety Department. A separate permit shall be required for each site, and may cover both excavations and fills.

.02 **Issuance.** The provisions of Section II-13-7 are applicable to grading permits. The Chief Building Official may require that grading operations and project designs be modified if delays occur which incur weather-generated problems not considered at the time permit was issued.

.03 **Application.** The application for a grading plan shall include:

1. A Site Map.

2. A Grading Plan.
3. An Erosion Control Plan.
4. Any supplementary material as required by the Building and Safety Department.
5. Work schedule.
6. Application fees.
7. Estimated quantities of material involved.

.04 **Plans and Specifications.** Each application for a grading permit shall be accompanied by Five sets of plans and Two sets of specifications, they shall specify the amount of cut, fill export, and import, and supporting data consisting of a soil engineering report and engineering geology report. The plans and specifications shall be prepared and signed by a Civil Engineer when required by the Chief Building Official.

.05 **Information on Plans and in Specifications.** Plans shall be drawn to scale upon suitable material, minimum dimension 24″ × 36″ sheet size, and shall be of sufficient clarity to indicate the nature and extent of the work proposed and show in detail that they will conform to the provisions of this code and all relevant laws, ordinances, rules and regulations. The first sheet of each set of plans shall give the location of the work and the name and address of the owner and the person by whom they were prepared.

Section 8 Site Map and Grading Plan

II-13-8 Site Map and Grading Plan

.01 A vicinity sketch indicating the location of the site relative to the entire property, adjacent properties, and the principal roads in the area.

.02 Existing and proposed topography of the site taken at not more than a two-foot contour interval over the entire site. Ninety percent (90%) of the contours shall be plotted within one contour interval of the true location.

.03 Two-foot contour intervals that extend a minimum of 200 feet off-site.

.04 The site's property lines shown in true location with respect to the plan's topographic information; and any proposed divisions of land.

.05 The location and graphic representation of all existing and proposed drainage facilities.

.06 The location of proposed excavations and fills, of on-site storage of soil and other earth materials, and of on-site and/or off-site disposal. In cases where the location is off-site, a written description of the location will suffice.

.07 The location of all existing vegetation, especially locations of tree with a trunk diameter of 6 inches or more measured at a point 1 foot above average natural ground level.

.08 The quantity of soil or earth materials in cubic yards, to be excavated, filled, stored or otherwise utilized on-site.

.09 The location of any existing and proposed roads, buildings, wells, pipelines and other structures, facilities, and features on the site and the location of any improvements on adjacent land within twenty-five (25) feet of the proposed work.

.10 The location of watercourses including the width, direction of flow, and approximate location of high banks of any water course, and approximate boundaries of any areas subject to inundation.

.11 Location of known soil or geologic hazard areas.

.12 Availability of public facilities, such as sanitary sewage, water and fire protection.

.13 Completion of an environmental questionnaire unless previously submitted as part of project.

.14 Detailed description of measures to be taken to prevent soil erosion.

.15 Detailed plans of all surface and subsurface drainage devices, walls, cribbing, dams and other protective devices to be constructed with, or as a part of, the proposed work together with a map showing the drainage area and the estimated runoff of the area served by any drains.

.16 Location of any buildings or structures on the property where the work is to be performed and the location of any building or structures on land of adjacent owners which are within 15 feet of the property of which may be affected by the proposed grading operations, or other information required to complete the application process.

Section 9 Specifications Covering Construction and Material Requirements

II-13-9 Specifications Covering Construction and Material Requirements

.01 **Soil Engineering Report.** The soil engineering report required by Section II-13-7.04 shall include data regarding the nature, distribution and strength of existing soils, conclusions and recommendations for grading procedures and design criteria for corrective measures when necessary, and opinions and recommendations covering adequacy of sites to be developed by the proposed grading.

.02 Recommendations included in the report and approved by the Chief Building Official shall be incorporated in the grading plans or specifications.

.03 In-depth soils investigations shall be performed by the Soils Engineer if any of the following circumstances occur on the site:

1. More than 1,000 cubic yards of cut and fill material is moved.
2. Cuts and/or fills are more than 10 feet deep.
3. Grading or clearing will be done on slopes greater than 10%.
4. Other conditions as determined by the Chief Building Official.

.04 **Engineering Geology Report.** The engineering geology report required by Section II-13-7.04 shall include an adequate description of the geology of the site, conclusions and recommendations regarding the effect of geologic conditions on the proposed development, and opinions and recommendations covering the adequacy of sites to be developed by the proposed grading.

Recommendations included in the report and approved by the Chief Building Official shall be incorporated in the grading plans or specifications.

.05 In-depth geologic investigations shall be performed by a Geological Engineer, if required by the Chief Building Official.

Section 10 Erosion Control

II-13-10 Erosion Control

All aspects of Stormwater Quality protection shall be adhered to, and erosion control plans shall be prepared to be consistent with Section XIII, Stormwater of the Engineering Design Guidelines per Ordinance 66.3 and this section. In case of conflict between this section and Engineering Design Guidelines, the stricter requirement shall be followed.

.01 **Erosion Control Plan.** The plan shall be signed by a registered Civil Engineer. When site stabilization measures are included these shall be prepared by a registered Civil Engineer, Landscape Architect, or Architect.

.02 The erosion control plan will fully indicate necessary land treatment, structural measures and timing requirements which will effectively minimize soil erosion and sedimentation. The erosion and sediment control plan shall contain appropriate information according to this Section and as deemed necessary by the Chief Building Official. Following submittal of the application, the Chief Building Official shall determine the adequacy of the plan and may require the submission of further qualification or information when necessary to judge the adequacy of the planned erosion and sediment control measures.

.03 The erosion control plan shall contain a detailed description of the following:

1. Vegetative measures to stabilize the site, including steps to promote and protect native vegetation.

a) a description and delineation of the vegetative measures to stabilize the site, including, but not limited to, seed bed preparation, seeding methods, seeding time for new erosion control planting, the type, location and extent of pre-existing and undisturbed vegetation, and the steps for the promotion and protection of the native vegetation.

2. Drainage protection and control measures.

3. A description and delineation of non-vegetative surface runoff, erosion and sediment control measures, including, but not limited to, types of and methods of applying mulches, design and specification of berms sediment basins, retention basins, diverters and dikes.

4. Cut and fill construction.

5. Disposal of excess materials.

6. Stockpiling of materials.

7. Dust control measures.

8. A clear and definite delineation of the limits of work showing areas to remain undisturbed and showing areas to be disturbed.

9. Any additional information required by the Chief Building Official when necessary to judge the adequacy of the plan (i.e., mandatory soils and geologic investigations).

10. The site assessment which shall identify the character of the site as it pertains to:

a) erosion and loss of sediments.

b) slope stability.

.04 **Slopes.** The faces of cut and fill slopes shall be prepared and maintained to control against erosion. This control may consist of effective planting. The protection for the slopes shall be installed as soon as practicable and prior to calling for final approval. Where cut slopes are not subject to erosion due to the erosion-resistant character of the materials, such protection may be omitted.

.05 **Other Devices.** Where necessary, check dams, cribbing, riprap and other devices or methods that shall be employed to control erosion and provide safety.

Section 11 Work Schedule

II-13-11 Work Schedule

.01 The applicant must submit a master work schedule showing the following information:

1. The proposed grading schedule.
2. The proposed schedule for installation of all interim erosion and sediment control measures including, but not limited to, the stage of completion of erosion and sediment control devices and vegetative measures.
3. The schedule for construction, if any.
4. The schedule for installation of permanent erosion and sediment control devices where required.
5. For Hillside residences a detailed schedule of maintenance and upkeep for both erosion and sediment control facilities and plantings through the first rainy season, as identified by Engineering Design Guidelines.
6. For Hillside residences approval on a week to week basis during the period of rainy season may be granted by the Chief Building Official. This approval will require long range weather projection as a primary basis.

Section 12 Reserved

Section 13 Cuts

II-13-13 Cuts

.01 **General.** Unless otherwise recommended in the approved soil engineering and/or engineering geology report, cuts shall conform to the provisions of this section.

.02 **Slope.** The slope of cut surfaces shall be no steeper than safe for the intended use. Cut slopes shall be no steeper than two horizontal to one vertical.

Section 14 Fills

II-13-14 Fills

.01 **General.** Unless otherwise recommended in the approved soil engineering report, fills shall conform to the provisions of this section.

Exception: In the absence of an approved soil engineering report these provisions may be waived for minor fills not intended to support structures.

.02 **Fill Location.** Fill slopes shall not be constructed on natural slopes steeper than two to one.

.03 **Preparation of Ground.** The ground surface shall be prepared to receive fill by removing vegetation, noncomplying fill, top-soil and other unsuitable materials scarifying to provide a bond with the new fill, and, where slopes are steeper than five to one, and the height is greater than 5 feet, by benching into sound bedrock or other competent material as determined by the soils engineer. The bench under the toe of a fill on a slope steeper than five to one shall be at least 10 feet wide and 2 feet deep in accordance with Fig. No. 1. The area beyond the toe of fill shall be sloped for sheet overflow or a paved drain shall be provided. Where fill is to be placed over a cut, the bench under the toe of fill shall be at least 10 feet wide but the cut must be made before placing fill and approved by the Soils Engineer and Engineering Geologist as a suitable foundation for fill. Unsuitable soil is soil which, in the opinion of the Chief Building Official or the Civil Engineer or the Soils Engineer or the Geologist, is not competent to support other soil or fill, to support structures or to satisfactorily perform the other functions for which the soil is intended.

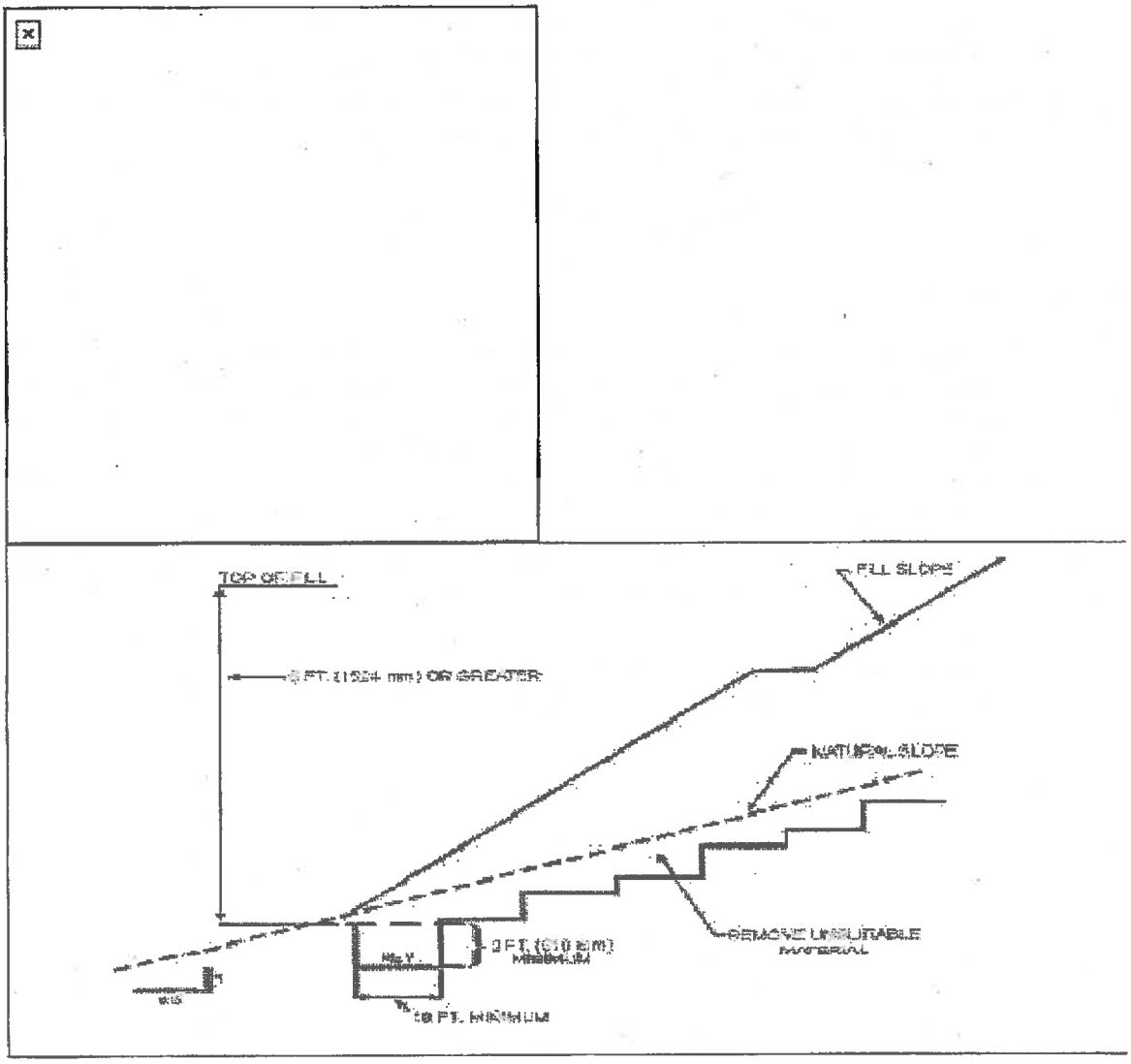

Figure No. 1

.04 **Fill Material.** Detrimental amounts of organic material shall not be permitted in fills. Except as permitted by the Chief Building Inspector no rock or similar irreducible material with a maximum dimension greater than 12 inches shall be buried or placed in fills.

Exceptions: The Chief Building Official may permit placement of larger rock when the soils engineer properly devises a method of placement, continuously inspects its placement and approves the fill stability. The following conditions shall also apply:

A. Prior to issuance of the grading permit, potential rock disposal areas shall be delineated on the grading plan.

B. Rock sizes greater than 12 inches in maximum dimension shall be 10 feet or more below the grade, measured vertically.

C. Rocks shall be placed so as to assure filling of all voids with fines.

.05 **Compaction.** All fill material shall be compacted to 90 percent of maximum density as determined by ASTM D 1557, Modified Proctor, in lifts not exceeding 12 inches (305 mm) in depth or equivalent as approved by the Building and Safety.

.06 **Slope.** The slope of fill surfaces shall be no steeper than is safe for the intended use. Fill slopes shall be no steeper than two horizontal to one vertical.

.07 **Drainage and Terracing.** Drainage and terracing shall be provided, and the area above fill slopes and the surfaces of terraces shall be graded and paved as required by Section II-13.

Section 15 Setbacks

II-13-15 Setbacks

.01 **General.** The setbacks and other restrictions specified by this section are minimum and may be increased by the Chief Building Official or by the recommendation of a Civil Engineer, Soils Engineer or Engineering Geologist, if necessary for safety and stability or to prevent damage of adjacent properties from deposition or erosion or to provide access for slope maintenance and drainage. Retaining walls may be used to reduce the required setbacks when approved by the Chief Building Official.

.02 **Setbacks from Property Lines.** The tops of cuts and toes of fill slopes shall be set back from the outer boundaries of the permit area, including slope-right areas and easements, in accordance with Figure No. 2.

.03 **Design Standards for Setbacks.** Setback between graded slopes (cut or fill) and structures shall be provided in accordance with CBC 2010 Figure No. 1808.7.1.

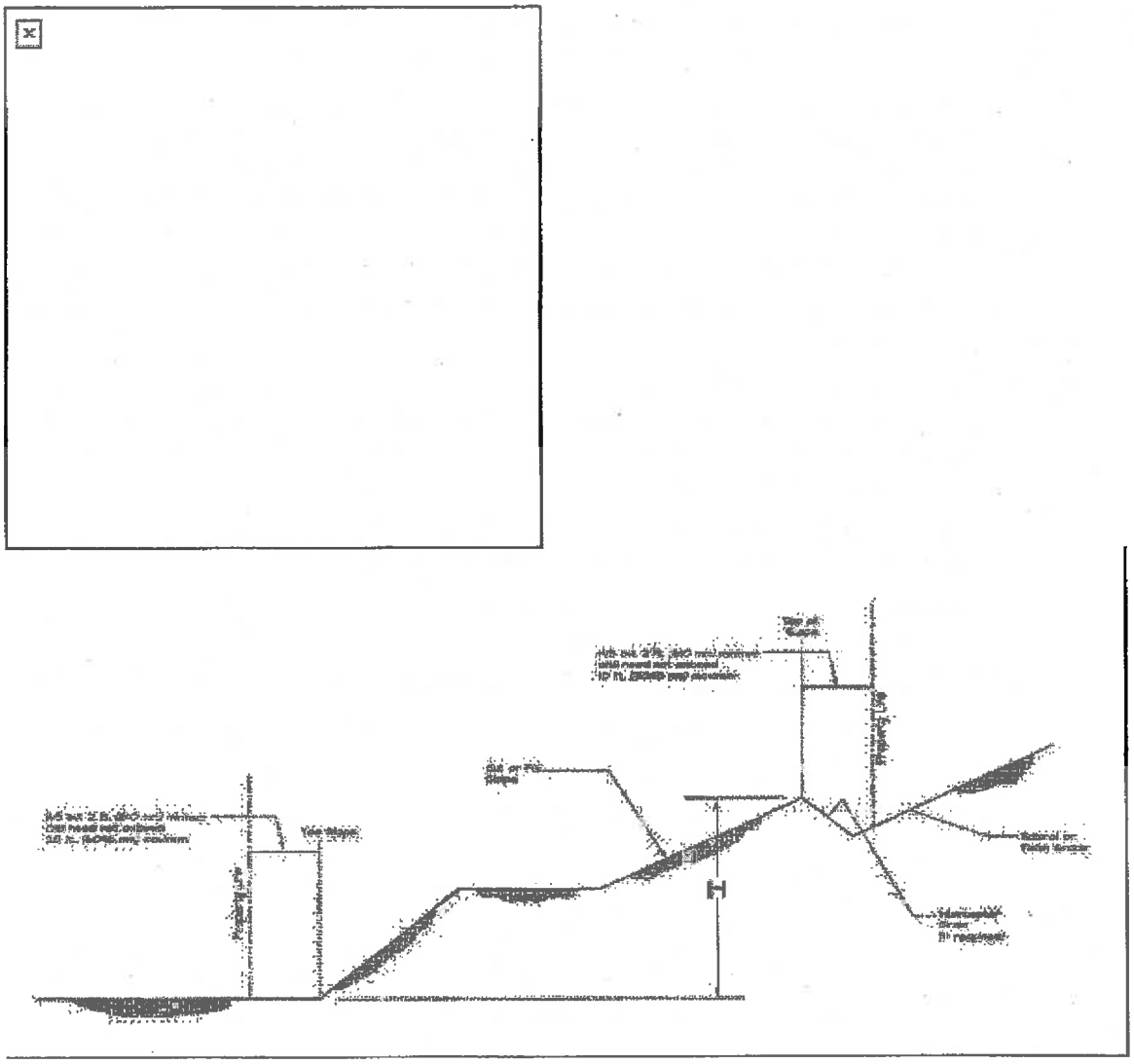

Figure No. 2

Section 16 Drainage and Terracing

II-13-16 Drainage and Terracing

.01 **General.** Unless otherwise indicated on the approved grading plan, drainage facilities and terracing shall conform to the provision of this section and Section XIII Stormwater of the Engineering Design Guidelines per Ordinance 66.3. In case of conflict between this section and Engineering Design Guidelines, the stricter requirement shall be followed.

.02 **Terrace.** Terraces at least 6 feet in width shall be established at not more than 30-feet vertical intervals on all cut or fill slopes to control surface drainage and debris except that where only one terrace is required, it shall be at mid-height. For cut or fill slopes greater than 60 feet and up to 120 feet in vertical height, one terrace at approximately mid-height shall be 12 feet in width. Terrace widths and spacing for cut and fill slopes greater than 120 feet in

height shall be designed by the Civil Engineer and approved by the Chief Building Official. Suitable access shall be provided to permit proper cleaning and maintenance.

.03 **Swales or Ditches.** Swales and ditches on terraces shall have a minimum gradient of 5 percent and must be paved with reinforced concrete not less than 3 inches in thickness or an approved equal paving. They shall have a minimum depth at the deepest point of 1 foot and a minimum paved width of 5 feet. A single run of swale or ditch shall not collect runoff from a tributary area exceeding 1 surface acre (projected) without discharging into a down drain, and subject to approval of the Chief Building Official.

.04 **Subsurface Drainage.** Cut and fill slopes shall be provided with sub-surface drainage as necessary for stability.

.05 **Disposal.** All drainage facilities shall be designed to carry waters to the nearest practicable drainage way approved by the Chief Building Official and/or other appropriate jurisdiction as a safe place to deposit such waters. Erosion of ground in the area of discharge shall be prevented by installation of nonerosive downdrains or other devices.

.06 **Building** sites shall have a drainage gradient of 2 percent from the building pad toward approved drainage facilities, unless waived by the Chief Building Official.

Exception: The gradient from the building pad may be 1 percent if all of the following conditions exist throughout the permit area:

A. No proposed fills are greater than 10 feet in maximum depth.

B. No proposed finish cut or fill slope faces have a vertical height in excess of 10 feet.

C. No existing slope faces, which have a slope face steeper than 10 horizontally to 1 vertically, shall have a vertical height in excess of 10 feet.

.07 **Interceptor Drains.** Paved interceptor drains shall be installed along the top of all cut slopes where the tributary drainage area above slopes towards the cut and has a drainage path greater than 40 feet measured horizontally. Interceptor drains shall be paved with a minimum of 3 inches of concrete, or gunite and reinforced. They shall have a minimum depth of 12 inches and a minimum paved width of 36 inches measured horizontally across the drain. The slope of drain shall be approved by the Chief Building Official.

Section 17 Lot Improvement, Paving of Driveways, Parking Lots

II-13-17 Lot Improvement, Paving of Driveways, Parking Lots

.01 **Drainage Swales.** Each lot shall be graded to provide protective slopes away from all sides of all buildings on the lot. Where such a swale meets a slope which drains toward a building, a drainage swale of adequate width, depth and longitudinal gradient will be required to carry away the surface water without flooding against the buildings or without ponding lot areas. The location of the swales is to be directly related to the block grading type.

.02 **Elevation of Pads.** The elevation of the pads shall be higher than the elevation of the drainage swale or ground slope measured at least 5' (five feet) from the outer walks of the buildings.

.03 **Drainage Method** used shall be shown on all plans. When building plans indicate that the construction will comply with the provisions of this Chapter, but inspection shows that the building as constructed cannot drain by gravity, the Building and Safety may require that the

condition be remedied by installing a pump or by other approved means. No Final Inspection or Certificate of Occupancy may be issued until this requirement is met.

.04 Not used.

.05 **Flat Cement Work** for garage, or carport floors, and patio slabs shall have minimum thickness of 3½ inches and shall be installed over (4) inches of an approved aggregate base (6 X 6 X1 0 X10 woven wire mesh laid within the slab may be used in place of the approved aggregate base. Other flat cement work, except walkways, having any minimum dimension of (6ï¿½) six feet and a minimum area of (64) sixty-four square feet shall be installed in a like manner.

Section 18 Paving Standards

II-13-18 Paving Standards

Private streets shall be designed consistent with Section VII "Street Design" of the Engineering Design Guidelines per Ordinance 66.3 and this section. In case of conflict between this section and Engineering Design Guidelines, the stricter requirement shall be followed.

.01 The areas designed for use as driveways, parking lots and loading areas and their approaches shall be paved with asphalt concrete, portland cement concrete on prepared bases or any other approved material meeting traffic index as noted in Section II-13-18.02 and shall be maintained in good condition to the satisfaction of the Chief Building Official.

.02 Paving sections shall be designed by a Civil Engineer or a Soils Engineer based on a "R" value test of the native soil and a traffic index as noted below and approved by the Chief Building Official.

1. One family residential	T.I. 3.5
2. Multi-family	T.I. 5
3. Commercial	T.I. 5
4. Industrial auto parking lots	T.I. 5
5. Industrial driveways	T.I. 5.5
6. Industrial & commercial loading zones	T.I. 6

.03 On approval of the Chief Building Official, the following minimum standards may be used without a soils report:

a. Residential—Single Family and Duplex.

(1) Portland Cement concrete four (4) inches of concrete on four (4) inches of approved granular aggregate base on compacted subgrade.

(2) Asphaltic concrete surfacing Two (2) inches of asphaltic concrete with fog seal on six (6) inches of aggregate base on compacted subgrade.

.04 Residential Multiple, Commercial and Institutional

(1) Portland Cement concrete Five (5) inches of concrete on four (4) inches of aggregate base.

(2) Asphaltic concrete surfacing Two and one half inches (2 ?) of asphaltic concrete with fog seal on ten (10) inches of aggregate base material on compacted subgrade.

An alternate, with approval of the Chief Building Official, a 6 × 6 × 10 × 10 mesh in the concrete may be substituted for the aggregate base under the Portland Cement.

.05 Materials:

a. "Aggregate Base" material shall be Class 2 and shall conform to Caltrans Standard Specifications, Section 26 for 3/4", one and one-half (1½') inches maximum combined grading, except as herein specified.

b. Equipment used in lieu of Section 26-1.04 shall be approved by the Chief Building Official prior to construction.

c. "Asphalt Concrete Surfacing" shall conform to Caltrans Standard Specifications, Section 39 for Type B Asphalt Concrete. Aggregate grading shall conform to ?" maximum, Medium.

d. Asphalt of grade AR 4000 shall be used and a certificate guaranteeing compliance of asphalt with specification is to be furnished.

e. Placing of tack coat, prime coat, spreading and compaction methods and miscellaneous details of asphaltic construction shall be in accordance with applicable portions of Caltrans Standard Specifications.

f. Concrete. Portland Cement Concrete shall be designed to develop a strength of a minimum of 2000 pounds per square inch at twenty-eight (28) days and shall be poured with a maximum of (4") four inches of slump.

g. Mix Design. Mix design shall be designed by an approved laboratory and paid for by the contractor. The basic proportions of the mix shall be determined by weight of loose dry material, and all proportioning of the ingredients for each batch shall be done by weighing the fine and coarse aggregates separately. Water and cement shall be separately measured and introduced to the mix by such methods that the proportions thereof can be accurately controlled and easily checked at any time.

h. Approval. Approval of the mix shall be by the Building and Safety who may determine accuracy by making tests, to be paid for by the contractor. Batch tickets to be provided the Building and Safety Department upon request with each load.

Section 19 – 22 Reserved

Section 23 Design Standard--General

II-13-23 Design Standard—General

.01 Developments shall be accomplished so as to minimize adverse effects upon the natural or existing topography and soil conditions and to minimize the potential for erosion. Control measures shall apply to all aspects of the proposed grading and shall be in operation during all stages of development. The following basic design standards shall serve as minimum guidelines for grading and erosion and sediment control plans.

Section 24 Native Vegetation

II-13-24 Native Vegetation

.01 Native vegetation, requiring minimum maintenance, shall be used, to the extent possible, in permanent replanting areas subject to provisions of the local Fire Code.

.02 Existing natural vegetation shall be retained, protected, and supplemented to the greatest extent possible. Site development shall be accomplished so that existing trees can be preserved whenever possible and practical. For specific standards, refer to Title X, Chapter 2, Tree Maintenance and Protection, of the Milpitas Municipal Code.

Section 25 Planting Time Limits

II-13-25 Planting Time Limits

.01 The planting schedule, as part of erosion control plan, shall include initiation, sequence of installation of sediment control facilities, duration of exposure, start/stop dates of critical area stabilization.

.02 Planting shall be completed as soon as possible after grading and clearance.

.03 Planting shall be completed within 90 days after grading completion and as subject to other seasonal limitations.

Section 26 Drainage Controls

II-13-26 Drainage Controls

All drainage design shall comply with Storm Drain Design Criteria per Engineering Design Guidelines per Ordinance 66.3 Section XII, Stormwater and this section. In case of conflict between this section and Engineering Design Guidelines, the stricter requirement shall be followed.

.01 Drainage controls shall be installed immediately after extensive clearing or grading.

.02 Concentrated runoff shall be taken in nonerodable surfaced facilities.

.03 Runoff conduits shall have energy dissipaters at discharge points.

.04 Roads and driveways shall have a nonerodable surface with drainage facilities.

.05 All graded areas larger than 5,000 sq. ft. that tend to pond or concentrate water be provided with drains.

.06 Underground drainage shall be provided for, where necessary.

.07 Localized drainage from roof areas and driveways shall be removed by adequate drainage systems to prevent erosion.

Section 27 Slope Construction

II-13-27 Slope Construction

.01 Fill slopes shall not be steeper than two horizontal to one vertical unless a thorough geological and engineering analysis indicates that steeper slopes are safe and appropriate erosion control measures are specified.

.02 Cut slopes shall not be steeper than 2:1 unless a thorough geological and engineering analysis indicates that steeper slopes are safe and appropriate erosion control measures are specified.

Section 28 Slope Surface Stabilization

II-13-28 Slope Surface Stabilization

.01 No clearing shall take place more than 15 days before grading commences (except with special approval).

.02 All cut/fill surfaces shall have appropriate low maintenance plant material installed.

.03 Clearing shall be kept to the minimum needed, as determined by Building and Safety.

.04 All soil stabilization measures shall be in place as soon as possible after grading and will be defined within the approved sediment control plan.

Section 29 Vegetation Maintenance

II-13-29 Vegetation Maintenance

.01 Adequate irrigation measures shall be available for use prior to planting and shall be maintained until planting has become sufficiently established to properly promote growth.

Section 30 Protection of Watercourses

II-13-30 Protection of Watercourses

.01 Cuts and fills shall not encroach on natural watercourses or constructed channels.

.02 Fills placed against watercourses shall have suitable protection against erosion during flooding.

.03 Excavated materials shall not be deposited or stored in or alongside the river or watercourses where the materials can be washed away by high water or storm runoff.

Section 31 Sediment Control

II-13-31 Sediment Control

All sediment control shall comply with Engineering Design Guidelines per Ordinance 66.3 Section XII, Stormwater and this section. In case of conflict between this section and Engineering Design Guidelines, the stricter requirement shall be followed.

.01 Facilities shall be constructed to maximize the retention of sediment produced on site.

.02 Sediment basins, sediment traps, diversions or similar required measures shall be installed well in advance, coincident of any clearing or grading and maintained throughout any such operations. The design of such structures shall account for potential mosquito problems.

.03 Permanent control structures and final vegetation shall be installed as soon as practical in the development.

.04 Surface runoff rates in excess of pre-development levels shall be retarded by appropriate measures.

.05 Disposal of cleared vegetation and excavated materials shall be done in a manner which reduces the risk of erosion and shall strictly conform to the provisions of the approved grading permit. Topsoil shall be conserved for reuse in revegetation of disturbed areas whenever possible.

Section 32 Grading Inspection

II-13-32 Grading Inspection

.01 **General.** All grading operations for which a permit is required shall be subject to inspection by the Chief Building Official. When required by the Chief Building Official, special inspection of grading operations and special testing shall be performed in accordance with the provisions of Section II-I-22.01 of the City of Milpitas Municipal Code.

.02 **Grading Designation.** All grading in excess of 5000 cubic yards shall be performed in accordance with the approved grading plan prepared by a Civil Engineer, and shall be designated as "engineered grading." Grading involving less than 5000 cubic yards shall be designated "regular grading," unless the permittee, with the approval of the Chief Building Official, chooses to have the grading performed as "engineered grading."

.03 **Engineered Grading Requirements.** For engineered grading, it shall be the responsibility of the Civil Engineer who prepares the approved grading plan to incorporate all recommendations from the soil engineering and engineering geology reports into the grading plan. He also shall be responsible for the professional inspection and approval of the grading within his area of technical specialty. This responsibility shall include, but need not be limited to, inspection and approval as to the establishment of line, grade and drainage of the development area. The Civil Engineer shall act as the coordinating agent in the event the need arises for liaison between the other professionals, the contractor and the Chief Building Official. The Civil Engineer also shall be responsible for the preparation of revised plans and the submission of as-graded grading plans upon completion of the work. The grading contractor shall submit in a form prescribed by the Chief Building Official a statement of compliance to said as-built plan.

.04 **Soil Engineering** and Engineering Geology reports shall be required as specified in Section II-13-7. During grading all necessary reports, compaction data and soil engineering and engineering geology recommendations shall be submitted to the civil engineer and the Chief Building Official by the Soils Engineer and the Engineering Geologist.

.05 **The Soils Engineer's** area of responsibility shall include, but need not be limited to, the professional inspection and approval concerning the preparation of ground to receive fills, testing for required compaction, stability of all finish slopes and the design of buttress fills, where required, incorporating data supplied by the Engineering Geologist.

.06 **The Engineering Geologist's** area of responsibility shall include, but need not be limited to, professional inspection and approval of the adequacy of natural ground for receiving fills and the stability of cut slopes with respect to geological matters and the need for subdrains or other ground water drainage devices. He shall report his findings to the Soils Engineer and the Civil Engineer for engineering analysis.

.07 **The Chief Building Official** shall inspect the project at the various stages of the work requiring approval and at more frequent intervals as necessary, to determine that adequate control is being exercised by the professional consultants.

.08 **Regular Grading Requirements.** The Chief Building Official may require inspection and testing by an approved testing agency, paid for by the Contractor.

The testing agency's responsibility shall include, but need not be limited to, approval concerning the inspection of cleared areas and benches to receive fill, and the compaction of fills.

When the Chief Building Official has cause to believe that geologic factors may be involved the grading operation will be required to conform to "engineered grading" requirements.

.09 **Notification of Noncompliance.** If, in the course of fulfilling their responsibility under this Chapter, the Civil Engineer, the Soils Engineer, the Engineering Geologist or the testing agency finds that the work is not being done in conformance with this Chapter or the approved grading plans, the discrepancies shall be reported immediately in writing to the person in charge of the grading work and to the Chief Building Official. Recommendations for corrective measures, if necessary, shall be submitted.

.10 **Transfer of Responsibility for Approval.** If the Civil engineer, the Soils Engineer, the Engineering Geologist or the testing agency of record is changed during the course of the work, the work shall be stopped until the replacement has agreed to accept the responsibility within the area of their technical competence for approval upon completion of the work.

Section 33 Completion of Work

II-13-33 Completion of Work

.01 **Final Reports.** Upon completion of the rough grading work and at the final completion of the work the Chief Building Official may require the following reports and drawings and supplements thereto:

1. An as-graded grading plan prepared by the Civil Engineer including original ground surface elevations, as-graded ground surface elevations, lot drainage patterns and locations and elevations of all surface and sub-surface drainage facilities. Civil Engineer shall provide approval that the work was done in accordance with the final approved grading plan.

2. A soil grading report prepared by the Soil Engineer including locations and elevations of field density tests, summaries of field and laboratory tests and other substantiating data and comments on any changes made during grading and their effect on the recommendations made in the soil engineering investigation report. Soil Engineer shall provide approval as to the adequacy of the site for the intended use.

3. A geologic grading report prepared by the Engineering Geologist including a final description of the geology of the site including any new information disclosed during the grading and the effect of same on recommendations incorporated in the approved

grading plan. Engineering Geologist shall provide approval as to the adequacy of the site for the intended use as affected by geologic factors.

.02 **Notification of Completion.** The permittee or his/her agent shall notify the Chief Building Official when the grading operation is ready for final inspection. Final approval shall not be given until all work including installation of all drainage facilities and their protective devices and all erosion control measures have been completed in accordance with the final approved grading plan and the required report have been submitted.

Section 34 Conditions of Approval or Denial of Grading Permit

II-13-34 Conditions of Approval or Denial of Grading Permit

.01 The City of Milpitas reserves the right to impose such conditions on the grading permit as may be reasonable or necessary to prevent creation of a nuisance or dangerous conditions, and to deny the issuance of a grading permit where the proposed work would cause hazards adverse to the public safety and welfare.

.02 Approval of the permit will not be granted unless:

1. The proposed grading is related to a use presently permitted by law on the property.
2. The grading is necessary for the establishment or maintenance of a use.
3. The design, scope, and location of the grading or clearing is appropriate for the use and causes minimum disturbance of the terrain and natural features of the land, and does not degrade water quality or certain other natural resources.

Section 35 Review and Approval

II-13-35 Review and Approval

.01 Grading permit applications and accompanying maps and plans shall be reviewed by the Chief Building Official and approved when found to be in compliance with the provisions of this Chapter, and conforms to acceptable grading and erosion control techniques.

Section 36 Enforcement and Inspection

II-13-36 Enforcement and Inspection

.01 The provisions of this ordinance shall be enforced by the City of Milpitas and by the Chief Building Official who shall inspect all grading and erosion control work and require compliance with all the provisions of the Chapter.

Section 37 Grading and Erosion Control Inspection

II-13-37 Grading and Erosion Control Inspection

.01 The Chief Building Official shall inspect the work site for compliance with conditions of the approved permit, for verification of reports submitted by the permittee, and for the quality of the work being performed as approved by the permit.

.02 Approved plans and permits for grading and erosion control work shall be maintained at the site during the grading activity and until the work has been approved.

.03 A minimum of at least five inspections shall be made as listed.

1. Initial Inspection. When permittee or his agent is ready to begin work on excavation or fill and construction stakes have been set, but no grading begun;
2. Rough Grading. Including stripping, keying, compaction and subsurface drains;
3. Erosion Control Compliance Inspection. For hillside residences, an inspection of erosion control facilities and revegetation measures shall be made between September 15 and October 1, if work completion is scheduled after October 1.
4. Final Construction Inspection. When all work, including installation of all drainage, and other erosion control facilities and all planting has been completed.
5. Final Stabilization Inspection. For Hillside residences during the first rainy season an inspection of the site will be made to determine if any remedial work is necessary to abate erosion and sedimentation problems prior to issuing the Notice of Compliance for the permit.

Section 38 Notification of Completion

II-13-38 Notification of Completion

.01 The permittee or his agent shall notify the Chief Building Official when the grading/erosion operation is ready for final inspection. Final approval shall not be given until all work including installation of all drainage facilities and their protective devices and all erosion control measures have been completed and maintained following completion of grading or clearing, in accordance with the final approved grading and erosion control plans and the required reports have been submitted.

Section 39 Applicant's Responsibilities

II-13-39 Applicant's Responsibilities

.01 The applicant shall install all soil erosion and sediment control measures in strict compliance with this Chapter and in accordance with the approved erosion control plan. All soil erosion and sediment control measures shall be adequately maintained by the applicant for three years or until such measures are stabilized as determined by the Chief Building Official. The Chief Building Official shall issue a notice of compliance when the approved grading and erosion control plan measures are fully applied and completed indicating the date of compliance.

.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 R2-2009-0074 for Municipal Regional Permit Number (MRP) CAS612008. Developers are responsible for reviewing and complying with the MRP conditions.

.03 The applicant shall comply with the City's Flood Plain Ordinance (Ord. 209.1, Chapter 15, Title XI).

.04 A new or modified erosion and sediment control technique may be allowed to be used provided there is mutual agreement between the Chief Building Official and the applicant that the technique meets the intent of the erosion control plan.

.05 The City of Milpitas may cause remedial work to be done, at the applicant's expense, if it is determined that it is necessary to protect completed work or to prevent damage.

Section 40 Permit Suspension

II-13-40 Permit Suspension

.01 In the event that work performed does not conform to the provisions of the permit, or to the approved plans and specifications, or to any written instructions of the Chief Building Official, a written notice to comply shall be given to the permittee. Such notice shall set forth the nature of the corrections required and the time within which corrections shall be made. Failure to comply with such written notice shall be deemed justification for suspension of the permit, which will require that all work stop except that necessary for correction of the violation. Upon correction of the violation the permittee may apply for removal of suspension.

Section 41 Abatement of Hazards

II-13-41 Abatement of Hazards

.01 Whenever the City of Milpitas determines that any existing excavation embankment or fill on private property has become a hazard to life and limb, or endangers property, or adversely affects the safety, use or stability of public way, drainage channel, or identified sensitive environmental resources of critical concern, the owner of the property upon which the excavation or fill is located, or the Lessee thereof, or other person or agent in control of said property, upon receipt of notice in writing from the City of Milpitas shall, within the period specified therein, repair or eliminate such excavation or embankment so as to eliminate the hazard and be in conformance with the requirements of this Chapter.

Section 42 Performance Bond

II-13-42 Performance Bond

.01 The Chief Building Official shall, before issuing a permit in hillside areas, require a cash or corporate surety bond, instrument of credit or other security acceptable to the City be posted by the applicant, conditioned upon the faithful performance of the conditions in the permit, and erosion control measures specified in the permit within the time specified by the Chief Building Official.

.02 The amount of the bond or security shall be the full cost of the installed erosion and sediment control measures and facility maintenance.

.03 The Chief Building Official may grant a partial or complete waiver of such bond where he finds minimal impairment of existing surface drainage, minimal erosion hazard and minimal sedimentation hazard upon any adjacent land or watercourse and no hazard to human life or property.

.04 The bond or security shall remain in effect and held until the erosion and sediment control measures have stabilized the site and all plan and permit conditions have been met, at which time a "notice of compliance" certificate will be issued following the final construction inspection.

Section 43 Appeal

II-13-43 Appeal

Any act of any officer or employee of the City of Milpitas under the provisions of this Chapter may be appealed in accordance with the provisions of II-1-13.01 of the Milpitas Municipal Code.

Section 44 Penalties

II-13-44 Penalties

.01 See II-1-26.

Section 45 Fees

II-13-45 Fees

.01 **Plan Checking Fee.** For excavation and fill on the same site, the fee shall be based on the volume of the excavation or fill, whichever is greater. Before accepting a set of plans and specifications for checking, the Chief Building Official shall collect a plan checking fee. Separate permits and fees shall apply to retaining walls or major drainage structures as indicated elsewhere in this Chapter. There shall be no separate charge for standard terrace drains and similar facilities. The amount of the plan checking fee for grading plans shall be as set forth by Resolutions of the City Council.

.02 The plan checking fee for a grading permit authorizing additional work to that under a valid permit shall be the difference between such fee paid for the original permit and the fee shown for the entire project.

Section 46 Grading Permit Fees

II-13-46 Grading Permit Fees

A fee for each grading permit shall be paid to the City of Milpitas as set forth by Resolutions of the City Council.

Section 47 Reserved

Chapter 14 EXISTING BUILDING CODE

Sections:

Section 1 - Adoption of the Existing Building Code
Section 2 - Amendments to the 2013 California Existing Building Code
Section 3 - Repeal of Conflicting Ordinances
Section 4 - Severability
Section 5 - Effective Date

Section 1 Adoption of the Existing Building Code

II-14-1.01 Adoption of the Existing Building Code

The 2013 Edition of the California Existing Building Code, California Building Standards Code, known as the California Code of Regulations, Title 24, incorporating Appendices A2, A3, A4, and A5 of the International Existing Building Code, 2012 Edition published by the International Code Council is hereby adopted. There is one copy of said code on file in the office of the Chief Building Official for use and examination by the public.

Section 2 Amendments to the 2013 California Existing Building Code

II-14-2.01 Amendments to the 2013 California Building Code

Adopt Appendices A2, Earthquake Hazard Reduction in Existing Reinforced Concrete and Reinforced Masonry Wall Building with Flexible Diaphragms, A3, Prescriptive Provisions for Seismic strengthening of Cripple Walls and Sill Plate Anchorage of Light, Wood-framed Residential Buildings, A4, Earthquake Hazard Reduction in Existing Wood-frame Residential Buildings with Soft, Weak or Open-front Walls & A5, Earthquake Hazard Reduction in Existing Concrete Buildings of 2009 International Existing Building Code.

Section 3 Repeal of Conflicting Ordinances

II-14-3.01 Repeal of Conflicting Ordinances

Upon adoption of each new California Existing Building Code, the previously adopted California Code for Building Conservation is superseded in its entirety.

Section 4 Severability

II-14-4.01 Severability

The City Council declares that, should any provision, section, paragraph, sentence, or word of this amendment be rendered or declared invalid by a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of said Chapter hereby adopted shall remain in full force and effect.

Section 5 Effective Date

II-14-5.01 Effective Date

This Chapter shall become effective on January 1, 2014.

Chapter 15 FIREPLACE/WOODSMOKE POLLUTION

Sections:

Section 1 - General Requirements
Section 2 - Applicability
Section 3 - Definitions
Section 4 - Enforcement

Section 1 General Requirements

II-15.1.01 General Requirements

It shall be unlawful to install a wood burning appliance that is not pellet-fueled wood heater or EPA certified wood heater.

Section 2 Applicability

II-15.2.01 New Construction
II-15.2.02 Existing Structures
II-15.2.03 Conversions
II-15.2.04 Reconstruction/Repair

II-15.2.01 New Construction

Only gas fireplaces, pellet-fueled wood heaters or E.P.A. certified wood-burning appliances may be installed in any new construction.

II-15.2.02 Existing Structures

Only gas fireplaces, pellet-fueled wood heater or E.P.A. certified wood-burning appliances may be added to or replace wood-burning appliances in existing buildings.

II-15.2.03 Conversions

The conversion of a gas fireplace to burn wood shall constitute the installation of a wood burning appliance and shall be subject to the requirements of this Chapter.

II-15.2.04 Reconstruction/Repair

A wood burning appliance shall comply with this Chapter if (1) it is reconstructed, (2) additions, alterations, or repairs are made to the appliance that require opening up immediately-adjacent walls, or (3) the residential unit or commercial building in which the appliance is located is renovated, and the renovation includes opening up walls immediately adjacent to the appliance.

Section 3 Definitions

II-15.3.01 Bay Area Air Quality Management District
II-15.3.02 E.P.A.
II-15.3.03 E.P.A. Certified Wood Heater
II-15.3.04 Fireplace
II-15.3.05 Gas Fireplace
II-15.3.06 Pellet-fueled Wood Heater
II-15.3.07 Solid Fuel
II-15.3.08 Wood Burning Appliance

II-15.3.01 Bay Area Air Quality Management District

"Bay Area Air Quality Management District" means the air quality agency for the San Francisco Bay Area pursuant to California Health and Safety Code Section 40200.

II-15.3.02 E.P.A

"E.P.A." means United States Environmental Protection Agency.

II-15.3.03 E.P.A. Certified Wood Heater

"E.P.A. certified wood heater" means any wood heater that meets the standards in Title 40, Part 60; Subpart AAA, Code of Federal Regulations in effect at the time of installation and is certified and labeled pursuant to those regulations.

II-15.3.04 Fireplace

"Fireplace" means any permanently installed masonry or factory-built wood burning appliance, except pellet-fueled wood heater, designed to be used with an air-to-fuel ratio greater than or equal to 35 to 1, a burn rate of 11 pounds per hour, or a weight over 1,760 pounds.

II-15.3.05 Gas Fireplace

"Gas fireplace" means any device designed to burn natural gas in a manner that simulates the appearance of a wood burning fireplace.

II-15.3.06 Pellet-fueled Wood Heater

"Pellet-fueled wood heater" means any solid-fueled burning device that operates on pellet-fuel and is U.S. EPA Phase II certified. Pellet fuel may be compressed wood, corn or other biomass.

II-15.3.07 Solid Fuel

"Solid fuel" means wood or any other non-gaseous or non-liquid fuel.

II-15.3.08 Wood Burning Appliance

"Wood burning appliance" means fireplace, wood heater, or pellet-fired wood heater or and similar device burning and solid fuel used for aesthetic or space-heating purposes.

Section 4 Enforcement

II-15.4.01 Enforcement

Any person who plans to install a wood burning appliance must submit documentation to the Building and Safety Department of the City of Milpitas demonstrating that the appliance is a pellet-fueled wood heater or EPA certified wood heater. Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be punishable as provided by law.

Chapter 19 GREEN BUILDING STANDARDS CODE

Sections:

Section 1 - Adoption of the Green Building Standards Code
Section 2 - Reserved
Section 3 - Repeal of Conflicting Ordinances
Section 4 - Severability
Section 5 - Effective Date

Section 1 Adoption of the Green Building Standards Code

II-19-1.01 Adoption of the Green Building Standards Code

The 2013 Edition of the California Green Building Standards Code, California Building Standards Code, known as the California Code of Regulations, Title 24, Part 11, also known as the CALGreen Code, published by the International Code Council. There is one copy of said code on file in the office of the Chief Building Official for use and examination by the public.

Section 2 Reserved

Section 3 Repeal of Conflicting Ordinances

II-19-3.01 Repeal of Conflicting Ordinances

Upon adoption of each new California Green Building Standards Code, the previously adopted California Green Building Standards Code is superseded in its entirety.

Section 4 Severability

II-19-4.01 Severability

The City Council declares that, should any provision, section, paragraph, sentence, or word of this amendment be rendered or declared invalid by a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of said Chapter hereby adopted shall remain in full force and effect.

Section 5 Effective Date

II-19-5.01 Effective Date

This Chapter shall become effective on January 1, 2014.

Chapter 20 GREEN BUILDING REGULATIONS

Sections:

Section 1 - Purpose and Intent
Section 2 - Definitions
Section 3 - Standards for Compliance
Section 4 - Incentives for Compliance
Section 5 - Administrative Procedures and Implementation of Regulations
Section 6 - Hardship or Infeasibility Exemption
Section 7 - Appeal
Section 8 - Effective Date

Section 1 Purpose and Intent

II-20-1.01 Purpose and Intent

The purpose and intent of this Chapter is to enhance the public health and welfare by promoting the environmental and economic health of the City through the design, construction, maintenance, operation and deconstruction of buildings and other site development by incorporating green building practices into all development. The green building provisions referred to in this Chapter are designed to achieve the following goals:

1. Increase energy efficiency;
2. Encourage water and resource conservation;
3. Reduce waste generated by construction projects; and
4. Promote the health of residents, workers and visitors to the City.

Section 2 Definitions

II-20-2.01 Purpose

The purpose of this Section is to ensure precision in interpretation of this Chapter. This Section provides definitions of terms and phrases used that are technical or specialized, or may not reflect common usage. If any of the definitions in this Chapter conflict with definitions in other provisions of the Municipal Code, these definitions shall control for the purposes of these Green Building Regulations. If a word is not defined in this Chapter, or other provisions of the Municipal Code, the most common dictionary definition is presumed to be correct.

II-20-2.02 Definitions

The following terms shall have the ascribed definition for the purposes of applying the criteria of this Chapter.

A

"Addition" means new construction square footage added to an existing structure.

"Applicant" means any entity that applies to the City for the applicable permits to undertake any covered project within the City, or any subsequent owner of the site.

C

"Compliance Official" means the Chief Building Official or designee.

"Compliance Threshold" means the minimum number of points or rating level of a green building rating system that must be attained for a particular Covered Project.

"Covered Project" means any planning entitlement application(s) or building permit application(s) for commercial (non-residential) new construction or renovations, for any single-family, two-family or multi-family new construction or renovation, or for city-sponsored construction projects subject to the Standards for Compliance Section of this Ordinance.

G

"Good Faith Effort" means a project that has not met the required compliance threshold, but for extenuating reasons or reasons beyond the control of the applicant, the Compliance Official has found the project meets the good faith effort provisions.

"Green Building" means a whole systems approach to the design, construction and operation of buildings that substantially mitigates the environmental, economic, and social impacts of buildings. Green building practices recognize the relationship between the natural and built environments and seek to minimize the use of energy, water and other natural resources and provide a healthy, productive indoor environment.

"Green Building Project Checklist" means a checklist or scorecard developed for the purpose of calculating a green building rating.

"Green Building Rating System" means the rating system associated with specific green building criteria and used to determine compliance thresholds. Examples of rating systems include, but are not limited to, the LEED and GreenPoint Rated systems.

"GreenPoint Rated" means a residential green building rating system developed by the Build It Green organization.

"GreenPoint Rated Verification" means verification of compliance by a certified GreenPoint Rater, resulting in green building certification by Build It Green including green points allocation across all of the resource categories.

L

"LEED®" means the "Leadership in Energy and Environmental Design" green building rating system developed by the U.S. Green Building Council.

M

"Mixed Use" means the construction of a building or buildings that include both commercial and residential uses.

"Multi-Family Residential" means a building containing three or more attached dwelling units.

N

New Construction, Commercial (Nonresidential). "Commercial (Nonresidential) New Construction" means the construction of a new retail, office, industrial, warehouse, service, hotel, motel, or similar building(s), or additions to such building(s).

New Construction, Residential. "Residential New Construction" means the construction of a new single-family or two-family dwelling unit or of new or replacement multi-family residential building(s), or additions to such building(s).

P

"Priority Plan Review" means a covered project meeting the Incentives for Compliance will receive building permit plan review comments from all City Departments on the first plan review within fifty percent (50%) less time than what would normally be scheduled for the scale and size of the project. The plan review would be performed during regular working hours and would be scheduled ahead of other plan reviews for which off-hour fees were not already paid.

Q

"Qualified Green Building Professional" means a person including but not limited to an employee of the City, trained through the USGBC as a LEED accredited professional or through

Build It Green as a certified green building professional or similar qualifications if acceptable to the Compliance Official.

R

"Renovation" means any rehabilitation, repair, remodeling, change, or modification to an existing building, where changes to floor area and the footprint of the building are negligible.

S

"Single-Family or Two-Family Residential" means a single detached dwelling unit or two units in a single building.

"Square Footage," for the purposes of calculating commercial, multi-family residential, and single-family and two-family new construction square footage, means all new and replacement square footage, including basement areas [seven (7) feet or greater in height] and garages, except that unconditioned garage space shall only count as fifty percent (50%) of that square footage. Areas demolished shall not be deducted from the total new construction square footage.

Section 3 Standards for Compliance

II-20-3.01 Covered Projects

Standards for Compliance for covered projects are identified in Table 3.01-1, Green Building Standards for Compliance, of this Chapter.

Table 3.01-1
Green Building Standards for Compliance[1]

Type of Project	Building Improvements		
	Checklist Required	Minimum Threshold	Verification Required
Residential			
New Construction: ≥ five (5) units	Build it Green or LEED for Homes	50 Green Points (Build it Green) or LEED for Homes Certified	Yes
Nonresidential			
New Construction: >25,000 and ≤49,999 s.f.	LEED	LEED Certified	Yes
New Construction or renovations*: ≥ 50,000 s.f.	LEED	LEED Silver	Yes
City Buildings			

New construction or renovations* over 25,000. s.f.	LEED	LEED Silver	Yes
Mixed Use	Residential and Commercial criteria as applicable to each residential and commercial component of the project.		

Note: All square footage is gross.

* Renovation area includes only the area of work that requires permit application.

Per these green building regulations, a rating system other than LEED or Build It Green may be used with equivalent thresholds at the discretion of the Compliance Officer.

II-20-3.02 Exempted projects

The following projects are exempted from the provisions of this Chapter:

1. Buildings designated as a local Cultural Resource or listed on California Register of Historic Resources or the National Registry of Historic Places.
2. Remodels or renovations to residential buildings that do not add more than five (5) new dwelling units.

Section 4 Incentives for Compliance

II-20-4.01 Purpose

To further encourage higher levels of green building compliance for a project, incentives are offered for Residential and Commercial (Nonresidential) projects.

II-20-4.02 Residential

Projects meeting the following threshold shall be eligible for Priority Plan Review:

1. Projects earning seventy-five (75) Green Points or equivalent in LEED.

II-20-4.03 Commercial (Nonresidential)

Projects meeting the following threshold shall be eligible for Priority Plan Review:

1. Projects meeting LEED Gold and above.

Section 5 Administrative Procedures and Implementation of Regulations

II-20-5.01 Administration

A. Responsibility of the Compliance Official. The responsibility of the Compliance Official shall be as follows:

1. The Compliance Official shall promulgate any rules and regulations necessary or appropriate to achieve compliance with the requirements of this Chapter. The rules and regulations shall provide, at a minimum, for the incorporation of green building requirements of this Chapter into checklist submittals with planning entitlement and building permit applications, and supporting design, construction, or development documents to demonstrate compliance with this Chapter.

2. The Compliance Official shall have the responsibility to administer and monitor compliance with the green building requirements set forth in this Chapter and with any rules and regulations promulgated thereunder, and to grant exemptions from the requirements, where so authorized.

II-20-5.02 Implementation of Regulations

Compliance with the provisions of this Chapter shall be listed as a condition of approval on any discretionary permit approval, and on the building plans for building permit approval, for any Covered Project.

A. Compliance Procedures. The procedures for compliance documentation shall include, but not be limited to, the following:

1. Preliminary Documentation. Applicants for a Covered Project are encouraged, but not required, to meet with the Compliance Official or his or her designated staff, in advance of submittal of an application, to determine required green building thresholds for compliance and to review the proposed green building program and details to achieve compliance.

2. Discretionary Planning Entitlements. Upon submittal of an application for any discretionary planning entitlement for any Covered Project, including but not limited to Site Development Permits, Conditional Use Permit, Planned Unit Development or Variance requests, application materials shall include the appropriate completed checklists, as required by Section 3, Standards for Compliance, of this Chapter, accompanied by a text description of the proposed green building program and expected measures and milestones for compliance.

3. Building Plan Review. Upon submittal of an application for a building permit, building plans for any Covered Project shall include a checklist and green building program description, reflecting any changes proposed since the planning entitlement phase (if a planning entitlement was required). The checklist shall be incorporated onto a separate plan sheet included with the building plans. A qualified green building professional shall provide evidence of adequate green building compliance or documentation to the Compliance Official to satisfy the requirements of Section 3, Standards for Compliance, of this Chapter, prior to issuance of a building permit.

4. Documentation for Final Building Inspection, Verification, and Occupancy. Prior to scheduling of final building inspection and occupancy for any Covered Project, a

Qualified Green Building Professional shall provide evidence of adequate green building compliance or documentation to the Compliance Official to satisfy the requirements of Section 3, Standards for Compliance, of this Chapter. This information shall include, but is not limited to:

a. Documentation that verifies incorporation of the design and construction-related credits specified in the project approval for the Covered Project. This documentation can be in the form of inspection records when a City Building Inspector serves as the Qualified Green Building Professional;

b. A letter from the Qualified Green Building Professional that certifies that the Covered Project has been constructed in accordance with the approved green building project checklist;

c. Any additional documentation that would be required by the LEED reference guide for LEED certification (if required), or by the GreenPoint Rated manuals for GreenPoint Rated certification (if required); and

d. Any additional information that the applicant believes is relevant to determining that a good faith effort has been made to comply with this Chapter.

5. Final Determination of Compliance and Good Faith Effort to Comply. Prior to final building inspection for a Covered Project, the Compliance Official shall review the documentation submitted by the applicant in Section 5.02 (A)(4) above, and determine whether the applicant has achieved the required compliance threshold as set forth in Section 3, Standards for Compliance, of this Chapter, and/or demonstrated that measures are in place to assure that compliance shall take place no later than one year after approval of final building inspection.

If the Compliance Official determines that the applicant has met the requirements of Section 3 of this Chapter, for the project, the final building inspection may proceed, provided the Covered Project has received approval of all other inspections required by the Compliance Official.

If the Compliance Official determines that the required green building rating has not been achieved, the Compliance Official shall find one of the following:

a. Good Faith Effort to Comply: When an applicant submits a request in writing to the Compliance Official for approval of a good faith effort to comply, the Compliance Official shall determine that the applicant has made a good faith effort to comply with this Chapter when finding that either:

   i. The cost for assuring compliance is disproportionate to the overall cost of the project, or

   ii. The green building materials and technologies on the green building checklist are no longer available or not yet commercially available, or

   iii. At least eighty percent (80%) of the required green point credits have been achieved, and measures are in place to assure full compliance not later than one year after approval of the final building inspection.

Determination of a good faith effort to comply shall be made separately for each item on the green building project checklist. Granting of a good faith effort to comply for one item does not preclude the need for the applicant to comply with the other items on the green building checklist.

b. Non-Compliant Project. If the Compliance Official determines that the applicant has not made a good faith effort to comply with this Chapter, or if the applicant fails to submit the documentation required within the required time period, then the project shall be determined to be non-compliant, and the final inspection and approval for the project shall be withheld. A final inspection shall not take place until the applicant has implemented equivalent alternate measures approved by the Compliance Official or unless an exemption is granted for the project.

6. Non-Compliance. If, as a result of any inspection, the City determines that the Covered Project does not or is unlikely to comply with the approved plans or green building checklist, a full stop work order shall be issued if the Compliance Official determines that continuation of construction activities will jeopardize the project's ability to meet the required compliance threshold. The stop order shall remain in effect until the Compliance Official determines that the project will be brought into compliance with the approved plans and/or checklist.

7. Lack of Inspectors. If the Compliance Official determines that there is a lack of Qualified Green Building Professionals available to perform green building inspections within a timely manner, the Compliance Official may allow the architect, designer or contractor, who is a Qualified Green Building Professional, of the project to determine that green building requirements have been met.

Section 6 Hardship or Infeasibility Exemption

II-20-6.01 Exemption

If an applicant for a covered project believes that circumstances exist that make it a hardship or infeasible to meet the requirements of this Ordinance, the applicant may request an exemption. In applying for an exemption, the burden is on the applicant to show hardship or infeasibility.

The applicant shall indicate in the pre-permitting documentation the maximum number of credits he or she believes is practical or feasible for the covered project and the circumstances that he or she believes make it a hardship or infeasible to comply fully with this Chapter. Such circumstances may include, but are not limited to, availability of markets for materials to be recycled, availability of green building materials and technologies, and compatibility of green building requirements with existing building standards.

1. Granting of Exemption: If the City Manager or designee determines that it is a hardship or infeasible for the applicant to meet fully the requirements of this Chapter based on the information provided, the City Manger or designee shall determine the maximum feasible number of credits reasonably achievable for the covered project and shall indicate this number on the pre-permitting documentation submitted by the applicant.

2. Denial of Exemption: If the City Manager or designee determines that it is possible for the applicant to fully meet the requirements of this Chapter, he or she shall so notify the applicant in writing.

Section 7 Appeal

II-20-7.01 Appeals

1. Any aggrieved applicant or person may appeal the determination of the Compliance Official regarding: (a) the granting or denial of an exemption; or (b) compliance with any other provision of this ordinance.
2. Any appeal must be submitted in accordance with Title I, Section 5, Appeals to Council, of the Milpitas Municipal Code.
3. The appeal process shall follow the procedures set forth in Title I, Section 5, Appeals to Council, of the Milpitas Municipal Code.

Section 8 Effective Date

II-20-8.01 Effective Date of Ordinance

This Green Building Ordinance becomes effective on January 1, 2014 and applies to Covered Projects for which planning application(s) are submitted after January 1, 2014 or Covered Projects, not requiring planning entitlements, for which building permit applications are submitted after January 1, 2014.

Chapter 150 HISTORICAL BUILDING CODE

Sections:

Section 1-Adoption of Historical Building Code by Reference
Section 2-Purpose and Intent
Section 3-Additions and Amendments (Reserved)
Section 4-Violation an Infraction
Section 5-Conflict
Section 6-Effective Date

Section 1 Adoption of Historical Building Code by Reference

II-150-1.00 Adoption of Historical Building Code by Reference

The City Council of the City of Milpitas does hereby adopt 2013 California Historical Building Code, such code consisting of all the provisions of Part 8 - State Historical Building Code of Title 24, Building Standards of the California Administrative Code, published by International Code Council, 500 New Jersey Avenue, NW, 6th floor, Washington, D.C. 20001.

Section 2 Purpose and Intent

II-150-2.01 Purpose

The purpose of this code is to provide regulations for the preservation, restoration, rehabilitation, relocation, or reconstruction of buildings or properties designated as qualified historical buildings or properties. This Code is intended to provide solutions for the preservation of sustainability, to provide access for persons with disabilities, to provide a cost-effective approach to preservation, and to provide for the reasonable safety of the occupants or users. This Code required enforcing agencies to accept solutions that are reasonably equivalent to the regular code when dealing with qualified historical buildings or properties.

II-150-2.02 Intent

The intent of this Code is to facilitate the preservation and continuing use of qualified historical buildings or properties while providing reasonable safety for the building occupants and access for persons with disabilities.

Section 3 Additions and Amendments (Reserved)

Section 4 Violation an Infraction

II-150-4.00 Violation an Infraction

Whenever in this Chapter any act is prohibited or is made or is declared to be unlawful, or an offense, or the doing of any act is required, or the failure to do any act is declared to be unlawful, the violation of any such provision of said Chapter is hereby declared to be an infraction within the meaning of the Government Code and the Penal Code of the State of California. Pursuant to said provisions of said Section 36900 of the Government Code of the State of California, every violation determined to be an infraction is punishable by (1) a fine not exceeding One Hundred Dollars ($100) for a first violation; (2) a fine not exceeding Two Hundred Dollars ($200) for a second violation of the same act within one year; (3) a fine not exceeding Five Hundred Dollars ($500) for each additional violation of the same act within one year. Each day such a violation continues shall be regarded as a new and separate infraction.

Section 5 Conflict

II-150-5.00 Conflict

If any procedural provision of Chapter 1, Title II of the Milpitas Municipal Code shall conflict with any procedural provision of the code hereby adopted, the provisions of Chapter 1, Title II of the Milpitas Municipal Code shall prevail. If any provision of Chapter 1, Title II of the Milpitas Municipal code relating to housing or building standards shall conflict with the provisions of the code hereby adopted relating to housing or building standards, the provisions of the California Code hereby adopted shall prevail. Provided, however, that all remedies and penalties provided in said Chapter 1, Title II of the Milpitas Municipal Code and in the code hereby adopted shall be cumulative and not exclusive and in addition to such other remedies or penalties as are provided by law.

Section 6 Effective Date

II-150-6.00 Effective Date

This Chapter shall be effective January 1, 2014.

Chapter 170 GAS SHUT-OFF DEVICES

Sections:
Section 1-Definitions
Section 2-Location of Installation
Section 3-Automatic Gas Shut-off Devices
Section 4-Enforcement

Section 1 Definitions

II-170-1.01 Downstream of Gas Utility Meter

"Downstream of Gas Utility Meter" shall refer to all customer-owned gas piping.

II-170-1.02 Residential Building

"Residential Building" shall mean any single-family dwelling, duplex, multi-family dwelling, apartment building, condominium building, townhouse building, lodging house, congregate residence, hotel, or motel.

II-170-1.03 Excess Flow Gas Shut-off Device

"Excess Flow Gas Shut-off Device" shall mean those valves or devices that are not actuated by motion, but are activated by significant gas leaks or overpressure surges, which can occur when pipes rupture inside the structure. The design of the device shall provide a proven method to provide automatically for expedient and safe gas Shut-off in an emergency. The design of the device shall provide a capability for ease of consumer or owner resetting in a safe manner. The device shall be certified by the Office of State Architect or the operational and functional design of the device shall meet or exceed the device certified by the Office of the State Architect. The determination of whether the operational and functional design of the device is at least equal to the device certified by the Office of State Architect may be made by one of the following: the Independent Laboratory of the International Accreditation Services (IAS), Underwriter's Laboratory (UL), International Association of Plumbing and Mechanical Officials (IAPMO), or other recognized listing and testing agency.

II-170-1.04 Seismic Gas-Shut-Off Device

"Seismic Gas Shut-off Device" shall mean a system consisting of a seismic sensing device and a gas Shut-off device designed to actuate automatically. The system may consist of separable components or may incorporate all functions in a single body. Where separable components are utilized, the companion gas-shut-off will be installed in a gas piping system in order to shut-off the gas downstream of the location of the gas seismic sensing device in the event of a severe seismic

disturbance. The device shall be certified by the Office of State Architect and the operational functional design of the device shall meet or exceed the device certified by the Office of State Architect. The determination of whether the operational and functional design of the device is at least equal to the device certified by the Office of State Architect may be made by one of the following: the Independent Laboratory of the International Accreditation Services (IAS), Underwriter's Laboratory (UL), International Association of Plumbing and Mechanical Officials (IAPMO), or other recognized listing and testing agency.

II-170-1.05 Upstream of Gas Utility Meter

"Upstream of Gas Utility Meter" shall refer to all gas piping installed by the utility up to and including the meter and the utility's bypass tee at the connection to the customer owned piping.

II-170-1.06 Automatic Gas Shut-off Device

"Automatic Gas Shut-off Device" shall refer to either: a Seismic Gas Shut-off Device or Excess Flow Gas Shut-off Device.

Section 2 Location of Installation

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 and Excess Flow Gas Shut-off Devices shall be installed at each gas fuel appliance outlet on each fuel gas line 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 Excess Flow Gas Shut-off Device (non-motion sensitive) shall be installed at gas fuel appliance outlet when replacing any existing gas fuel appliance.

(3) 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 and an approved Excess Flow Gas Shut-off Device (non-motion sensitive) shall be installed at gas fuel appliance outlet when replacing any existing or installing new gas fuel appliance.

II-170-2.01 Exceptions

(a) Automatic Gas Shut-off Devices installed on a gas distribution system owned or operated by a public utility shall not be subject to the requirements of this Chapter.

(b) The ordinance codified in this Chapter shall not apply to mechanical process equipment used in manufacturing.

Section 3 Automatic Gas Shut-off Devices

II-170-3.00 Automatic Gas Shut-off Devices

Gas Shut-off Devices-either installed in compliance with this ordinance or voluntarily, with a permit issued on or after the effective date of this ordinance, shall comply with the following requirements:

(a) Automatic Gas Shut-off Devices shall be installed by a contractor licensed in the appropriate classification by the State of California and in accordance with the manufacturer's instructions.

(b) Seismic Gas Shut-off Devices (motion sensitive) must be mounted rigidly to the exterior of the building or structure containing the fuel gas piping. This requirement need not apply if the Building and Safety Division determines that the Seismic Gas Shut-off Device (motion sensitive) has been tested and listed for an alternate method of installation.

(c) Seismic Gas Shut-off Devices (motion sensitive) must be certified by the Office of State Architect and be listed by an approved listing and testing agency such as IAS, IAMPO, UL or the Office of State Architect. In the case of Excess Flow Gas Shut-off Devices only, be certified by the Office of State Architect or be listed by an approved listing and testing agency such as IAS, IAMPO, UL or the Office of the State Architect.

(d) Both Excess Flow Gas Shut-off Devices and Seismic Gas Shut-off Devices must have a thirty (30) year warranty which warrants that the valve or device is free from defects and will continue to operate properly for thirty (30) years from the date of installation.

(e) Where Automatic Gas Shut-off Devices are installed voluntarily or as required by this section, they shall be maintained for the life of the building or structure or be replaced with a valve or device complying with the requirements of this section.

II-170-3.01 List of Approved Valves and Devices

The Building and Safety Department shall maintain a list of all Seismic Gas Shut-off Devices (motion sensitive) and Excess Flow Gas Shut-off Devices (non-motion sensitive) which meet or exceed the requirements of devices certified by the Office of the State Architect for installation in the State of California and which comply with the standards and criteria set forth in Health and Safety Code Section 19180 et seq., including quality and design regulation for earthquake actuated automatic gas Shut-off systems (see 24 Cal. Cod Regs. Ch. 12-16-1).

Section 4 Enforcement

II-170-4.00 Enforcement

The City of Milpitas Building and Safety Department shall administer and enforce the provisions of this ordinance.

SECTION 3. 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 4. 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 passage. 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.

RESOLUTION NO. 8312

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS MAKING FINDINGS NECESSARY UNDER STATE LAW TO ADOPT WITH LOCAL AMENDMENTS TO THE BUILDING CODE ADMINISTRATION ORDINANCE, THE 2013 CALIFORNIA BUILDING CODE, VOLUMES 1 AND 2, 2013 CALIFORNIA RESIDENTIAL CODE, 2013 CALIFORNIA MECHANICAL CODE, 2013 CALIFORNIA PLUMBING CODE, 2013 CALIFORNIA ELECTRICAL CODE, 2013 CALIFORNIA HISTORICAL CODE, 2013 CALIFORNIA GREEN BUILDING STANDARDS CODE, 2013 CALIFORNIA ENERGY CODE, AND 2013 CALIFORNIA EXISTING BUILDING CODE WITH APPENDIXES A2, A3, A4 AND A5 OF THE 2012 INTERNATIONAL EXISTING BUILDING CODE

WHEREAS, the City Council of the City of Milpitas intends to adopt by reference into the Milpitas Municipal Code the 2013 Edition of the above-noted California Codes and the above noted Appendixes of the 2012 International Existing Building Code; and

WHEREAS, in doing so, the City Council wishes to amend portions of the California Codes to better address local concerns and to be consistent with amendments made by the other cities and counties in the San Francisco East Bay, San Francisco Peninsula and Monterey Bay areas; and

WHEREAS, to the extent that it applies, Health and Safety Code Section 17958.5 requires such amendments to be reasonably necessary because of local climatic, geological or topographical conditions; and

WHEREAS, to the extent that it applies, Health and Safety Code Section 17958.7 requires local entities to make express findings that such amendments are necessary.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

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

2. The proposed amendments to the Building Code Administration Ordinance are generally not substantive in nature and are limited to editorial updating of this Ordinance. These amendments are necessary in order to update adopted Building Code references and to enhance the ability of the City to administer and enforce provisions of the technical building codes.

3. The proposed substantive amendments to the 2013 California Building Code involve:

   (1) Garage Ventilation
   (2) Chimney Spark Arresters On Fireplaces
   (3) Roofing for Hillside Construction
   (4) Seismic Engineering Provisions and Standards
   (5) Foundations and Foundation Reinforcement
   (6) Minimum Interior Concrete Slab Thickness and Minimum Reinforcement
   (7) Conventional Construction Provisions (Bracing)
   (8) Food Consumed on the Premises
   (9) Existing Structures

4. The proposed substantive amendments to the 2013 California Residential Code involve:

   (1) Garage Ventilation

(2) Chimney Spark Arresters On Fireplaces
(3) Roofing for Hillside Construction
(4) Seismic Engineering Provisions and Standards
(5) Foundations and Foundation Reinforcement
(6) Minimum Interior Concrete Slab Thickness and Minimum Reinforcement
(7) Conventional Construction Provisions (Bracing)

The above amendments are necessary because of the local climatic, geological or topographical conditions for the following reasons:

a. Garage ventilation is necessary since increased ventilation will delay or avoid ignition of flammable liquids or gases that may be dislodged due to seismic activity common to this geological area.
b. Amending the Code to require chimney spark arresters on fireplaces is necessary due to the local climatic wind conditions combined with a proximity to high fire hazard areas.
c. Amending the Code to require that all hillside construction be designed for a minimum speed of 80 mph, exposure C and be subject to requirements of Section 2308.10.1 of the 2013 California Building Code is necessary due to the climatic conditions of the area. The hillside area has a long history of high winds. Windstorms have caused significant damage to homes located in this area.
d. Amendments to the Code in regards to seismic engineering provisions and standards are necessary due to the fact the San Francisco Bay Area is densely populated and is in an area of high seismic activities as indicated by the United States Geological Survey and the California Division of Mines and Geology. Recent earthquake activities, including the 1989 Loma Prieta earthquake, have indicated the lack of adequate design and detailing as a contributing factor to damages that reduced life-safety of building occupants.
e. Amending the Code to require special foundation and extra reinforcement is necessary due to expansive (clay) soils and seismic activity common to this geological area.
f. Amending the Code to specify the minimum thickness and reinforcement of concrete slabs inside buildings and structures is due to local geological soil conditions, specifically that of predominantly expansive soils.
g. Amending the conventional construction (bracing) provisions of the Code by limiting the bracing use of gypsum board, structural fiberboard sheathing, hardboard panel siding and cement plaster is necessary because the City of Milpitas is located in an active seismic fault area and these materials have performed poorly during recent California seismic events.
h. Providing access to restrooms by customers in establishments selling food on premises is necessary in order to safeguard public health and general welfare through providing adequate sanitation.
i. Amending the existing structures chapter by adding structural provisions for repairs in existing buildings is necessary because the City of Milpitas is located in an active seismic fault area.
j. Other proposed amendments which are not substantive in nature, including various use restrictions, definitions and administrative provisions are necessary in order to enhance the City's ability to implement proposed amendments identified in Sections 2 and 3, above, as well as other provisions of the 2013 California Building Code, in that they will enhance the Code's purpose to provide minimum standards to safeguard life or limb, health, property and public welfare.

5. The proposed substantive amendment to the 2013 California Mechanical Code involves:

(1) Cooling water for mechanical equipment.

The above amendment is necessary because of local climatic, geological or topographical conditions for the following reasons:

a. Climatic and geological conditions limit the amount of fresh water that can be unnecessarily used and disposed of when other methods, such as air-cooled equipment, are available.
b. Other amendments are not substantive in nature and are limited to deleting administrative provisions, which are found in the Building Code Administration Ordinance. This amendment is necessary in order to enhance the City's ability to implement the provisions of the 2013California Mechanical Code.

6. The proposed substantive amendment to the 2013 California Plumbing Code involves:

(1) Non Essential Use of Domestic Water

The above amendment is necessary because of local climatic, geographical or topographical conditions for the following reasons:

a. Climatic and geological conditions limit the amount of fresh water that can be used for non-essential purposes and disposed of.
b. Other amendments are not substantive in nature and are limited to deleting administrative provisions, which are found in the Building Code Administration Ordinance. This amendment is necessary in order to enhance the City's ability to implement the provisions of the 2013 California Plumbing Code.

7. The proposed substantive amendments to the 2013 California Electrical Code involve:

(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
(4) Underground raceways (conduits) shall have an equipment grounding conductor

The above amendments are necessary because of local climatic, geographical or topographical conditions for the following reasons:

a. Provides for elimination of overhead services that are inherently less safe in event of floods, windstorms and accidental contact due to local climatic condition. Many buildings in the City of Milpitas are located in the flood zone and high wind areas.
b. Provides for a reasonably quick means of finding the location of power disconnects to buildings in the event of fires and/or other emergencies because the City of Milpitas is located in an active seismic fault area.
c. Sets a standard embraced in surrounding communities for grounding of electrical systems especially important for large electrical services commonly found on high-tech and manufacturing buildings typical in the City of Milpitas. Other types of grounding, such as rods, may be subject to deterioration in local soils.
d. Providing equipment grounding conductors enhances capability of keeping electrical systems grounded, which is important in high amperage electrical services common to Milpitas.

8. The proposed amendments to the 2013 California Historical Building Code are not substantive in nature and are limited to administrative provisions of the use and enforcement of this Code.

9. The proposed amendments to the 2013 California Green Building Standards Code are not substantive in nature and are limited to administrative provisions of the use and enforcement of this Code.

10. The proposed amendments to the 2013California Energy Code are not substantive in nature and are limited to administrative provisions of the use and enforcement of this Code.

11. The proposed substantive amendments to the 2013 California Existing Building Code involve:

(1) Include Appendix A2 of the 2012 International Existing Building Code
(2) Include Appendix A3 of the 2012 International Existing Building Code
(3) Include Appendix A4 of the 2012 International Existing Building Code
(4) Include Appendix A5 of the 2012 International Existing Building Code

The above amendments are necessary because of local climatic, geological or topographical conditions for the following reasons:

a. Include seismic strengthening provisions for existing reinforced concrete and masonry wall buildings with flexible diaphragms
b. Include seismic strengthening provisions for cripple walls and sill plates of light, wood-frame residential buildings
c. Include seismic strengthening provisions for wood-frame residential buildings with soft or open-front walls
d. Include seismic strengthening provisions for existing concrete buildings

12. All previous findings by the City Council in updating the above referenced codes are hereby adopted and incorporated herein.

PASSED AND ADOPTED this 19th day of November 2013, by the following vote:

AYES: (4) Mayor Esteves, Vice Mayor Polanski, Councilmembers Giordano and Montano

NOES: (0) None

ABSENT: (1) Councilmember Gomez

ABSTAIN: (0) None

ATTEST:

Mary Lavelle

Mary Lavelle, City Clerk

APPROVED:

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Michael J. Ogaz, City Attorney