

ORDINANCE NO. 2023- 05

AN ORDINANCE OF THE CITY OF NEVADA CITY AMENDING TITLE 15 OF THE NEVADA CITY MUNICIPAL CODE TO ADOPT THE 2022 CALIFORNIA BUILDING STANDARDS, WITH LOCAL AMENDMENTS

WHEREAS, the State of California revises its building standards on a triennial basis. The building standards are intended to regulate and govern the conditions and maintenance of all property, buildings, and structures by providing standards for supplied utilities, facilities, and other physical things and conditions essential to ensure that structures are safe, sanitary, and fit for occupancy and use, and

WHEREAS, pursuant to Health and Safety Code Section 17958.5, et seq., a city may make such changes or modifications in the requirements contained in the provisions of the California Building Standards Codes, as are reasonably necessary because of local climatic, geological, or topographical conditions, and

WHEREAS, the City of Nevada City contracts with the County of Nevada for its building inspection services, making it desirable to have the same building standards and amendments applicable within the City of Nevada City as those applicable in the County, and

WHEREAS, the County of Nevada has reviewed and on December 13, 2022, has adopted by Ordinance No. 2515, California Building Standards, local amendments, and findings applicable to the unincorporated areas after review and report by the County Building Director; and

WHEREAS, the City Council of the City of Nevada City concurs with the adopted purpose, amendments and findings adopted therein and desires to adopt the same amendments to be applicable within the City boundaries upon the same findings, except as specified herein, leaving in effect those provisions of Title 15 having special application only to the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NEVADA CITY HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The above recitals are true and incorporated into this ordinance.

SECTION 2: Legislative Purpose:

- A. The State of California revises its building standards on a triennial basis. The building standards are intended to regulate and govern the conditions and maintenance of all property, buildings and structures by providing standards for supplied utilities, facilities and other physical things and conditions essential to ensure that structures are safe, sanitary, and fit for occupation and use.
- B. It is the purpose and the intent of this Ordinance to make substantive revisions to Title 15 (Building and Construction) of the Nevada City Municipal Code to ensure conformity with the 2022 edition of the California Building Standards, to wit, the California Building Code and Division II Scope and Administration thereof, the California Residential Code,

the California Green Building Standards Code, the California Plumbing Code, the California Electrical Code, the California Fire Code, the California Mechanical Code, the California Energy Code, the California Referenced Standards Code, the California Historic Building Code, the California Existing Building Code, the 1997 Uniform Housing Code, the 1997 Uniform Code for the Abatement of Dangerous Buildings, the 2021 International Swimming Pool and Spa Code, and the 2021 International Property Maintenance Code and modifications thereto as adopted by the County of Nevada and by the City of Nevada City herein. A copy of the 2022 edition of the California Building Standards and included Codes is on file in the Nevada County Building Department and available on-line.

- C. Pursuant to Health and Safety Code Section 17958.5, *et seq.*, local jurisdictions may make such changes or modifications in the requirements contained in the provisions of the California Building Standards Code, as are reasonably necessary because of local climatic, geological, or topographical conditions. Nevada County's amendments to the 2022 California Building Standards, which have been made in response to unique climatic, geological, or topographical conditions in Nevada County, are codified in Chapter V of the Nevada County Land Use and Development Code and by this Ordinance are adopted by the City of Nevada City with modifications applicable within the City's jurisdiction. Local amendments to the California Building Standards Code shall not become effective until the modifications and findings have been filed with the Building Standards Commission.

SECTION 3: Chapters 15.04 and 15.08 of the Nevada City Municipal Code are repealed and readopted as set forth in Exhibit "A", attached hereto and incorporated by such reference.

SECTION 4. Findings.

- A. The City Council hereby finds and declares that the amendments to the 2022 California Building Standards, as codified in Chapter V of the Nevada County Land Use and Development Code and as modified herein, are reasonably necessary because of local climatic, geological, and topographical conditions, topographical variations and the high risk of forest fires within the City and County.
- B. The City Council hereby finds and declares that this Ordinance is exempt from California Environmental Quality Act (CEQA) review pursuant to the CEQA guidelines, including §15378(b)(5) as an organizational or administrative governmental activity that will not result in direct or indirect physical changes to the environment, and §15060(c)(2) as an activity that does not create a potential for direct or reasonably foreseeable indirect physical change in the environment.
- C. Pursuant to California Health and Safety Code sections 18941.5 and 17958, the City Council of the City of Nevada City hereby finds that the amendments adopted herein are reasonably necessary because the city has unique local climatic and topographic conditions. These local conditions have an adverse effect on the prevention of (1) major loss fires and (2) the potential for life and property loss, making the changes or

modifications in the California Building Standards Code necessary in order to provide a reasonable degree of property security, and fire and life safety in the City. Below are adverse local climatic, geological, and topographic conditions that necessitate the modifications to the California Building Standards Code.

1. The City of Nevada City weather is mild during the summer when daytime temperatures tend to range in the 70-90-degree Fahrenheit range, and cold during the winter, which daytime temperatures tend to be in the 40-degree Fahrenheit range. The City experiences large temperature variations between night and day during the summer; the difference can be up to 40 degrees Fahrenheit.
2. The City has a mix of urban population growth interspersed with areas of vegetation growth. Intensive use of land in urban areas means bigger buildings, which can also create complex problems for fire safety.
3. Average yearly rainfall for the City is approximately 55 inches. This rainfall normally occurs from November to May. Precipitation creates a condition where emergency responders need to drive more cautiously. Snow and ice can be present during winter months, contributing to freezing and slick roadways and resulting in numerous vehicle collisions.
4. The City of Nevada City also has a Mediterranean Climate characterized by warm, dry summers that cause an increase in fire risk during the summer and fall months. A significant portion of the City resides in a Very High Fire Hazard Severity Zone, as classified by the California Department of Forestry and Fire Protection (CAL FIRE).
5. The City is bisected by numerous topographical features including creeks, natural parkways, open space, bridges/overpasses, freeways, drainage canals, wildland, and hillside areas. These topographical features significantly impact the ability of emergency responders to extinguish or control wildland or structure fires. The City resides at an elevation varying between 2200 to 2800 feet.
6. Moderate traffic congestion on the City's major streets and intersections at peak times acts as a constraint to timely response for fire and emergency vehicles. As a result of increased development both within the City and in the unincorporated area of the County, some roadways, and intersections in the City are expected to have significantly increased traffic flow rates in the future. In the event of an accident or other emergency sections of the City could be isolated or response time could be sufficiently slowed so as to increase the risk of injury or damage.
7. Extended response times for a full fire fighting force to a known fire have the strong potential for increased risk to life and increased property damage and built in fire protection systems such as automatic fire alarm and automatic fire sprinkler systems are necessary, where they are otherwise not required by this code, to limit the threat to life and increased property loss.
8. The local climatic and topographical conditions affect the acceleration, intensity, and size of fires in the community. Times of little or no rainfall, or low humidity and high temperature create extremely hazardous conditions, particularly as they relate to wood shake and shingle roof fires. Nevada City's downtown and surrounding areas contain numerous historic and older buildings that are located close together, which

can exacerbate the fire condition from dry conditions, wind, and shake shingle roofs. Additionally, the City's development pattern contributes to its unique fire protection needs as the City is intersected by natural features and is also subject to traffic conditions. Local vegetation contributes to the fire dangers in the City, as the vegetation provides ready fuel for fast-spreading wildfires. These structures and the flammable material are susceptible to ignition by embers from a wild land fire, furthering the spread of fire to adjacent buildings.

SECTION 5: Severability.

If any provision or clause of this ordinance or the application thereof to any person or circumstances is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications of this ordinance which can be implemented without the invalid provision, clause or application; and to this end, the provisions of this ordinance are declared to be severable.

SECTION 6: Effective Date.

This ordinance shall be in full force and effect commencing thirty (30) days after its final adoption and a summary hereof shall be published once within fifteen (15) days in The Union, a newspaper of general circulation printed and published in the County of Nevada and circulated in the City of Nevada City and hereby designated for that purpose by the City Council.

SECTION 7. The City Clerk shall certify to the passage and adoption of this ordinance and shall cause the same to be published in the manner and form provided by law in The Union, a newspaper of general circulation printed and published in the City of Nevada City, State of California, which said newspaper is hereby designated for that purpose.

APPROVED FOR INTRODUCTION AT A REGULAR MEETING on the 10th day of May 2023, by the following vote:

AYES: FLEMING, FERNÁNDEZ, PETERSEN, CECI

NOES:

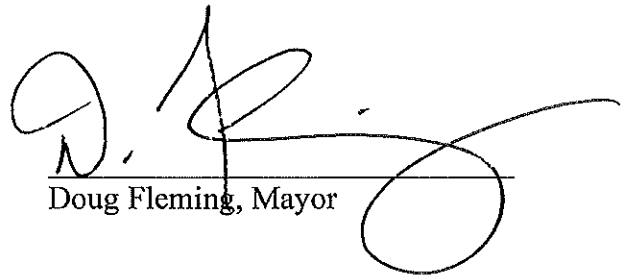
ABSENT: KLINE

PASSED, APPROVED, AND ADOPTED this 24th day of May 2023, by the following vote:

AYES: FLEMING, FERNÁNDEZ, PETERSEN, KLINE, CECI

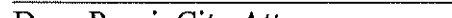
NOES:

ABSENT:


Doug Fleming, Mayor

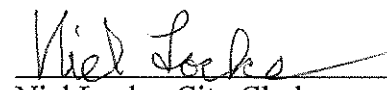
ATTEST:

APPROVED AS TO FORM:


Niel Locke, City Clerk
Dean Pucci, City Attorney

STATE OF CALIFORNIA)
COUNTY OF NEVADA) ss.
CITY OF NEVADA CITY)

I, Niel Locke, City Clerk of Nevada City, do hereby certify that the foregoing ordinance was introduced on the 24th day of May, 2023, was regularly adopted at a meeting thereof on the 24th day of May, 2023 and was published/posted pursuant to law.


Niel Locke, City Clerk

Chapter 15.04

Sections:

15.04.005	Purpose.
15.04.010	Definitions.
15.04.015	California Codes adopted.
15.04.020	California amendments adopted.
15.04.023	Limit on discretion of building official
15.04.025	Copies of Codes and County amendments
15.04.030	Compliance with environmental health, zoning, encroachment requirements and other regulations.
15.04.031	Special rules applicable to building permits in City and Historical District.
15.04.035	Building Standards Board of Appeals.
15.04.040	Building Accessibility Standards Board of Appeals.
15.04.045	Work exempt from permit; building permit.
15.04.050	Work exempt from permit; building permit.
15.04.100	Savings clause

15.04.005 Purpose.

This Chapter is enacted for the purpose of providing minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy, location and maintenance of all buildings and structures, regulated equipment, grading and construction activities that result in a land disturbance on private property within this jurisdiction in conformity with the 2022 edition of the California Building Standards and consistent with and complementary to standards adopted by the County of Nevada. Nothing in the codes hereinafter adopted shall be construed to prevent any person from performing his own building, mechanical, plumbing or electrical work when performed with the permits in compliance with this Chapter.

15.04.010 Definitions.

For the purpose of this Chapter, the following terms and words used herein or in any of the codes or ordinances adopted by reference therein, unless the context directs otherwise, shall have the meaning ascribed to them by this Section:

"Board of appeals", "housing advisory" and "appeals board" and any other references to an appellate body in any of the uniform codes or County amendments adopted by reference by this Chapter mean such entities as may be designated by the city council of Nevada City by resolution.

amendments, including appendix chapters and amendments set forth in Article 7 of this Chapter.

- F. The 2022 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, Part 4 (California Mechanical Code), incorporating the Uniform Mechanical Code, 2018 Edition, of the International Association of Plumbing and Mechanical Officials, the whole thereof with State amendments, including appendix chapters and amendments set forth in Article 8 of this Chapter.
- G. The 2022 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, Part 3 (California Electrical Code), incorporating the National Electrical Code, 2017 Edition, of the National Fire Protection Association, the whole thereof with State amendments, including annex chapters and amendments set forth in Article 11 of this Chapter
- H. The 2022 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, Part 2.5 (California Residential Code) incorporating the International Residential Code, 2018 Edition, of the International Code Council, the whole thereof with State Amendments, including appendixes "H", "J", "K", "Q", and "S" and amendments as set forth in Article 4 of this chapter.
- I. The 2022 edition of the California Building Standards Code, known as the California Code of Regulation, Title 24, Part 11 (California Green Building Standards Code) in whole thereof, with State Amendments.
- J. The 2022 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, Part 6 (California Energy Code) in whole thereof, with State Amendments.
- K. The 2022 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, Part 8 (California Historical Building Code) in whole thereof, with State Amendments.
- L. The 2022 edition of the California Building Standards Code, known as the California Code of Regulations, Title 24, Part 10 (California Existing Building Code), incorporating the International Existing Building Code, 2018 Edition, of the International Code Council, the whole thereof with State Amendments.
- M. The 2021 International Property Maintenance Code, of the International Code Council.
- N. The 1997 Uniform Code for the Abatement of Dangerous Buildings, of the International Conference of Building Officials.
- O. The 1997 Uniform Housing Code, of the International Conference of Building Officials.

Land Use and Development Code, a sewer backflow prevention device is required for property located in the City. A backflow device is required upon transfer of any parcel of real property within the City limits prior to close of escrow or transfer and upon issuance of a "final" of a building permit in accordance with the City of Nevada City adopted Resolution No. 2005-12.

In addition to the applicable requirements in Sec. L-V 1.7. A-D, subsection A of Sec. L-V 1.8 and Sec. L-V 1.9 of the Nevada County Land Use and Development Code, no grading or building permit shall be issued for property located in the City until the land use is approved by the City.

15.04.031 Special rules applicable to building permits in City and Historical District.

- A. In addition to the applicable requirements in Sec. L-V 1.7. A-D, subsection A of Sec. L-V 1.8 and Sec. L-V 1.9 of the Nevada County Land Use and Development Code, no grading or building permit shall be issued for property located in the City until the land use is approved by the City.
- B. By City Ordinance Nos. 338, 344, 365, 89-5 and 92-5, the City has designated a downtown Historical District deemed to be of importance to the history, architecture and culture of Nevada City and the buildings and properties therein shall be considered to be qualified historical buildings or properties for purposes of allowing alternate standards under the Historical Building Code to be applied to any work thereon, including without limitation, remodel, restoration, renovation and rehabilitation thereof. To encourage and promote such work and assure that it is not unduly restricted or delayed, the Building Official shall provide written notice to the City whenever any building permit is requested for buildings or properties within the Historical District and shall work with the City to facilitate timely completion, inspection and approval of such work and make no changes to a City-approved permit without prior written City approval.

15.04.035 Building and Accessibility Standards Board of Appeals.

- A. In order to hear and decide appeals of discretionary orders, decisions or determinations made by the Building Official relative to the application and interpretation of the provisions of the technical codes or the Historical Building Code or relative to the enforcement of the California Access to Public Accommodations by Physically Disabled Persons regulations within the City, the city council may, on a case-by-case basis or for designated periods of time, 1) designate the Nevada County Building and Accessibility Standards Board of Appeals created pursuant to Section 113.1, as modified by Sec. L-V 2.1 of the Nevada County Land Use and Development Code, to act as the Nevada City Building and Accessibility Standards Board of Appeals; 2) create its own Building and Accessibility Standards Board of Appeals subject to the same regulations as a County Board with each council member appointing one member who is not an employee of the City and is qualified by experience and training to pass on the matters appealed, including, but not limited to building construction, building service equipment and grading, with each appointed

pertaining to this chapter, set forth by the State of California or elsewhere in the City's code.

Chief, "fire chief", "city fire chief" and "chief of the fire department" mean the fire chief of the Nevada City Fire Department or his authorized designee.

"City", "agency" or "jurisdiction" means the City of Nevada City.

"Fire break" means a continuous strip of land upon which all rubbish, weeds, grass, or other growth that could be expected to burn when dry, has been abated or otherwise removed in order to prevent the surface extension of fire from one area to another.

15.08.015 California Fire Code and county amendments adopted.

Subject to the modifications and amendments contained in this Chapter, the 2022 California Fire Code and County amendments thereto were adopted by Sections 15.04.015 and 15.04.020 and incorporated into the Municipal Code of the City of Nevada City.

15.08.020 Responsibility for enforcement and review.

To clarify responsibility for enforcement and review as provided for in Nevada County Land Use and Development Coded Sec. L-V 5-4 within the City's jurisdiction:

- A. Except as otherwise required by controlling state law, enforcement of fire safety laws, standards and regulations and review of projects for compliance therewith shall be enforced within the incorporated areas of the City by the city fire chief or the authorized representative thereof.
- B. Whenever any application is made to the City for issuance of any discretionary land use permit or other land use entitlement, the City fire chief or authorized deputy, with enforcement responsibility pursuant to this Chapter, shall have the final authority and responsibility for review of such application for compliance with the requirements of this chapter. This review shall include the preparation of comments and appropriate mitigation measures and/or conditions of approval to assure compliance with all applicable fire safety laws, standards and regulations. To facilitate such review, copies of all such applications shall be promptly provided to the City fire chief or authorized deputy.

15.08.025 Appointment of fire marshal.

The amendment to the California Fire Code in sec. L-V 5.6 of Nevada County Land Use & Development Code is further amended within the City's jurisdiction to provide that the fire code official shall be appointed by the chief appointing authority of the jurisdiction and within the city's jurisdiction references to the County Fire Marshal shall refer to that appointed official.

15.08.030 Penalties.

In addition to the penalties provided for in the California Fire Code and in subsections A and B of Sec. L-V 5.7 of the County amendments thereto are added the following:

DISCONNECT”.

15.08.100 Savings clause.

The regulations set forth in this Chapter are not intended to be exclusive and compliance therewith shall not excuse noncompliance with any other regulations pertaining to this Chapter, set forth by the State of California or elsewhere in the City's code.