

CITY OF BELVEDERE

ORDINANCE NO. 2023-01

**AN ORDINANCE OF THE CITY OF BELVEDERE
REPEALING THE CONTENTS OF CHAPTER 16.04, "CONSTRUCTION CODES,"
OF THE BELVEDERE MUNICIPAL CODE; ADOPTING BY REFERENCE, WITH
CERTAIN AMENDMENTS, PARTS 1 THROUGH 6, 8, 10, 11, AND 12 OF TITLE 24
OF THE CALIFORNIA CODE OF REGULATIONS, 2022 EDITION, ENTITLED
RESPECTIVELY "CALIFORNIA ADMINISTRATIVE CODE," "CALIFORNIA
BUILDING CODE," "CALIFORNIA RESIDENTIAL CODE" "CALIFORNIA
ELECTRICAL CODE," "CALIFORNIA MECHANICAL CODE," "CALIFORNIA
PLUMBING CODE," "CALIFORNIA ENERGY CODE," CALIFORNIA
HISTORICAL BUILDING CODE," "CALIFORNIA EXISTING BUILDING CODE,"
"CALIFORNIA GREEN BUILDING CODE" AND "CALIFORNIA
REFERENCED STANDARDS CODE"; AND ADOPTING
BY REFERENCE PARTS 5.3 AND 5.4 OF THE 2007 EDITION OF THE
SAFETY CODE FOR ELEVATORS AND ESCALATORS (ASME A17.1) AND
FINDING THAT ADOPTION OF THE ORDINANCE IS EXEMPT PURSUANT TO
CEQA GUIDELINES.**

**THE CITY COUNCIL OF THE CITY OF BELVEDERE DOES HEREBY FIND AS
FOLLOWS:**

SECTION 1. Findings.

- A. On July 1, 2022, the California Building Standards Commission completed and adopted the 2022 California Building Standards Code to reflect the most recent triennial amendments to the model Code.
- B. Pursuant to Section 17958.5, 17958.7 and 18941.4 of the California Health and Safety Code, the City of Belvedere determines and that the modifications to the 2022 California Construction Standards are reasonably necessary because of local climatic, geological or topographical conditions that are unique to the City of Belvedere as set forth in Section 3 of this ordinance.
- C. Pursuant to 14 C.C.R. section 15378(b)(5), the City Council finds adoption of this ordinance is not project subject to CEQA because it is an administrative governmental activity that will not cause a direct or indirect physical change in the environment. The City Council also finds that, pursuant to 14 C.C.R. section 15061(b)(3) of the State CEQA Guidelines, this Ordinance is exempt from CEQA because it can be seen with certainty that the provisions contained in the Ordinance would have no significant on the environment. The City Council further

finds that the Ordinance is categorically exempt from CEQA under 14 C.C.R. sections 15307 and 15308 as action taken by a regulatory agency to protect the environment and natural resources.

SECTION 2. Repeal. Chapter 16.04 of the Belvedere Municipal Code is hereby repealed in its entirety.

SECTION 3. Addition. Chapter 16.04 is hereby reenacted to the Belvedere Municipal Code to read in its entirety as follows:

Chapter 16.04

CONSTRUCTION CODES

Sections:

- 16.04.010 Construction codes—Adoption by reference.
- 16.04.020 Changes to California Building Code and California Residential Code—Findings for.
- 16.04.030 California Building Code and California Residential Code—Amendments.
- 16.04.040 Violation—Penalty—Nuisance.
- 16.04.050 Prior acts.

16.04.010 Construction codes—Adoption by reference.

A. The following parts of Title 24, "California Building Standards Code," 2022 Edition, of the California Code of Regulations are adopted by reference as construction codes for the City, including the amendments listed in this Chapter, which are made pursuant to the findings of fact set forth in Section 16.04.020 of this Chapter:

- 1) Part 1 California Administrative Code;
- 2) Part 2 California Building Code, chapters 1-28, 31-33, and its Appendices I and

J;

- 3) Part 2.5 California Residential Code and its Appendices H;
- 4) Part 3 California Electrical Code;
- 5) Part 4 California Mechanical Code;
- 6) Part 5 California Plumbing Code and its Appendices A, D, G, and I;
- 7) Part 6 California Energy Code;
- 8) Part 8 California Historical Building Code;
- 9) Part 10 California Existing Building Code;
- 10) Part 11 California Green Building Code; and

11) Part 12 California Referenced Standard Code

B. Part 5.3, "Private Residence Elevators," and Part 5.4, "Private Residence Inclined Elevators," of Safety Code for Elevators and Escalators (ASME A17.1), 2007 Edition, published by the American Society of Mechanical Engineers, is adopted by reference as a construction code for the City.

C. A copy of each of these documents is maintained in the office of the Building Official, and reference is made to them with like effect as if all the provisions and printed matter therein were herein set forth in full.

16.04.020 Changes to California Building Code and California Residential Code—Findings.

A. Pursuant to Sections 17958.5 and 17958.7(a) of the State of California Health and Safety Code, the City Council of the City of Belvedere hereby determines and finds that all the changes or modifications in this Chapter to Part 2, "California Building Code," and Chapter 2.5, "California Residential Code," of Title 24, 2022 Edition of the California Code of Regulations are reasonably necessary because of the local climatic, geological and/or topographical conditions within the City of Belvedere as discussed below.

B. The City is densely populated with most structures being of wood frame construction, most having combustible exterior materials.

C. Many buildings were erected prior to the enforcement of zoning and building laws, with the result that many are located extremely close to each other with no provisions for fire protection.

D. The hilly topography of much of the City, often combined with narrow roads, reduces the fire department's ability to respond to emergency situations.

E. Much of the City contains heavy vegetation, including groves of eucalyptus and pine trees with interconnecting canopies.

F. The City is located in an area of high seismic activities as indicated by the U.S. Geological Survey and California Divisions of Mines and Geology.

G. The general marine environment within the City is conducive to organisms which produce dry rot conditions in wood structures.

H. The hillside topography in much of the City results in the susceptibility to earth sliding due to uncontrolled storm water drainage.

16.04.030 California Building Code and California Residential Code--Amendments.

The following changes and modifications are made to the 2022 edition of the California Code of Regulations, Parts 2 and/or 2.5, as indicated.

A. 1. Subsection 105.2 is amended to read as follows:

“105.2 Work exempt from permit. Exemption from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of the City of Belvedere. Permits shall be required, except for the following work: or the following.

Building:

1. Conventionally constructed one-story detached structures accessory to a dwelling, used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet and the structure complies with Zoning regulations. A building permit is required for any associated electrical, plumbing or mechanical work.
2. Fences 7 feet high or lower.
3. Private residential sidewalks and driveways not more than 30 inches above adjacent grade and supported directly on existing grade, that are not part of a required accessible route.
4. Painting, papering, tiling carpeting, cabinets, counter tops and similar work, except for the purposes of project valuation when a component of a larger project which requires a permit.
5. Swings and other playground equipment.
6. Window awnings supported by an exterior wall which do not project more than 54 inches from the exterior wall and do not require additional support.
7. Decks not exceeding 100 square feet in area, that are not more than 30 inches above grade at any point, are not attached to a dwelling and do not serve the exit door required by Section R311.4.

B. 1. Subsection 105.7.1 is hereby added to Parts 2 and 2.5 to read as follows:

“105.7.1 Hours when work is permitted. Work covered by any permit issued under this Code shall be performed only between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday. Work may not be performed

any time on weekends or on holidays recognized by the City: New Year's Day (January 1), Martin Luther King, Jr. Day (third Monday in January), Presidents' Day (third Monday in February), Memorial Day (last Monday in May), Independence Day (July 4), Labor Day (first Monday in September), Veteran's Day (November 11), Thanksgiving Day and the day following (fourth Thursday and Friday in November), and Christmas Day (December 25). Delivery of construction material such as lumber and cement may be made to the work site only between these hours. Only work on the interior of a building or structure, the performance of which creates no noise which is audible from the exterior of the building, may be performed outside these prescribed hours. The City Manager may, upon his discretion, grant written exceptions to this condition whenever such work can be demonstrated to his satisfaction to be necessary to protect the public's health and safety; the City Manager's written permission must be obtained prior to any work being undertaken outside these prescribed hours."

C 1. The Exceptions in Subsections R313.1 and R313.2 of Part 2.5 are hereby amended to read as follows:

"Exception: Deleted, refer to Section 903.2 of Part 2 as amended in Belvedere Municipal Code Section 16.04.030(E)."

D. 1. Subsections 406.3.3 and 406.3.5 of Part 2 and Subsections R309.1 and R309.2 of Part 2.5 are hereby amended to add the following:

"Where existing carport or garage structures are remodeled or repaired to the extent that fifty percent (50%) or more of the structure is involved, using criteria established by the Building Official, the floor surface must comply with this Section and the structure shall be redesigned to support all vertical and horizontal loads of current code."

E. 1. Subsection 903.2 of Part 2 is hereby amended to read as follows:

"903.2 Where required. All occupancies and facilities. An automatic fire sprinkler system shall be installed in all of the following:

1. Every newly constructed building and facility.

"Exceptions:

- a. Free standing Group U occupancies not more than 1,000 square feet and provided with exterior wall and opening protection as per Table 602 of the Building Code.
 - b. Agricultural buildings as defined in Appendix C of the Building Code and not exceeding 2,000 square feet, having clear unobstructed side yard of combustible materials, exceeding 60 feet in all directions and not exceeding 25 feet in height, and located within an Agricultural zoned district as defined in the Marin County Planning Code.
2. In newly created second units.
- Exception:** New Second units classified as a Junior Accessory Dwelling Unit as defined in Municipal Code Chapter 16.12, and California Government Code Section 65852.22, that do not result in the Junior Accessory Dwelling Unit creation being classified as a “substantial remodel” per item 3.
- 3. In all buildings which have more than fifty percent (50%) floor area added or any “substantial remodel,” as defined in Municipal Code Chapter 16.12, within any 36-month period. Exceptions may be granted by the Fire Code Official when alternate means of protection are installed as approved by the Fire Code Official.
 - 4. In all buildings except R-3 occupancies, in excess of 3,000 sq. ft. which have more than 10 percent floor area added within any 36-month period. Exceptions may be granted by the Chief when alternate means of protection are installed as approved by the Chief.
 - 5. A change in the use of a structure that results in a higher fire or life safety exposure when the square footage of the area changing use is more than 50% of the square footage of the building.”

F. 1. Subsection 903.3 of Part 2 is hereby amended by adding the following thereto:

“The requirements for fire sprinklers in this code section are not meant to disallow the provisions for area increase, height increase or Fire Resistive substation if otherwise allowed by Section 504 and 506 of the Building Code. All automatic fire sprinkler systems shall be installed in accordance with the written standards of the Fire Code Official and the following:

a. In all residential buildings where fire sprinklers are required any attached garages shall also require fire sprinklers, and except for single-family dwellings, in all residential occupancies the attics shall require fire sprinklers.

b. In all existing buildings, where fire sprinklers are required by provisions of this Code, they shall be extended into all unprotected areas of the building.

c. All single-family dwellings in excess of 5,000 square feet shall have automatic fire sprinkler systems designed in accordance with NFPA Standard 13 or 13R.”

G. 1. Subsection 1503.4.4 of Part 2 and Subsection 903.4.2 of Part 2.5 are hereby added to read as follows:

“**Drainage system.** Roof and deck drainage shall be directed to an approved on-site drainage system which terminates at a City drainage facility, gutter, the Belvedere Lagoon or San Francisco Bay.

Exceptions:

1. New roof or deck construction less than two hundred square feet in area may discharge at splash blocks, driveways or other appropriate paved surfaces.
2. When topographic features, NPDES requirements, or other constraints preclude conformance, the City may grant an exception pursuant to approval of an alternate drainage plan approved by the City Engineer.”

H. 1. Subsection 1505.1.3 of Part 2 and Subsection 902.1.3 of Part 2.5 are hereby amended to read as follows:

“**Roof coverings within all other areas.** The entire roof covering of every existing structure where more than 50 percent of the total roof area is

replaced within any one-year period, the entire roof covering of every new structure, and any roof covering applied in the alteration, repair or replacement of the roof of every existing structure, shall be a fire-retardant roof covering, or assembly, that is at least Class A.”

- I. 1. **Section 3110 Automatic Vehicular Gates** is hereby amended to read as follows:

Section 3110 ~~Automatic Vehicular Gates~~

3110.1 General. Automatic vehicular gates shall comply with the requirements of Sections 3110.2 and 3110.3 and other applicable sections of this code. All other gates shall comply with Sections 3110.4 and other applicable sections of this code.

3110.2 Vehicular Gates Intended for Automation. Vehicular gates intended for automation shall be designed, constructed and installed to comply with the requirements of ASTM F2200.

3110.3 Vehicular Gate Openers. Vehicular gate openers, where provided, shall be listed in accordance with UL 325.

3110.4 All Other Gates. Any gate more than 48 inches (1219 mm) in width or more than 84 inches (2134 mm) in height shall meet the requirements of ASTM F1184, shall be installed per the manufacturer’s recommendations, and shall be designed, constructed, and installed to meet all of the following:

1. Gate shall not fall over more than 45 degrees from a vertical plane when the gate is detached from supporting hardware.
2. Gate shall be balanced and not move under the gate’s own weight or by gravity.
3. Rolling wheels shall be covered.
4. Gate shall have positive stops.

16.04.040 Violation—Penalty—Nuisance.

A. Any person, firm or corporation violating any of the provisions of this Chapter shall be punishable by any of the remedies provided in Chapters 1.12 and 1.14 of the Belvedere Municipal Code, in the code adopted by Section 16.04.010 of this Chapter, or by any other remedy provided by law.

B. Any work commenced or continued in violation of this Chapter shall be, and is declared, unlawful and a public nuisance.

C. No new permits shall be issued for work on a property unless all existing violations and expired permits issued for work on such property are cleared by abatement or reinstatement

16.04.050 Prior acts.

The amendments provided for in the preceding Sections of this Chapter shall not affect any offense or act committed or done or any penalty or forfeiture before the effective date of the ordinance codified in this Chapter, nor shall it affect any prosecution, suit or proceeding pending or any judgment rendered prior to such effective date.

SECTION 4. Severability. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

SECTION 4. Effective Date. This ordinance shall take effect and be in force thirty (30) days after the date of its passage. Within fifteen (15) days following its passage, a summary of the ordinance shall be published with the names of those city council members voting for and against the ordinance and the city clerk shall post in the office of the city clerk a certified copy of the full text of the adopted ordinance along with the names of the members voting for and against the ordinance.

INTRODUCED AT A REGULAR MEETING on January 9, 2023, and adopted at a public hearing of the Belvedere City Council of the City of Belvedere on February 13, 2023, by the following vote:


AYES: Cooper, Kemnitzer, Mark, Wilkinson, Lynch
NOES: None
ABSENT: None
ABSTAIN: None

APPROVED:



James Lynch, Mayor

ATTEST:



Leticia I. Miguel, City Clerk