

ORDINANCE NO. 3658-C.S.

AN ORDINANCE AMENDING ARTICLES 1, 2, 8, AND 16 OF CHAPTER 1 OF TITLE 9 OF THE MODESTO MUNICIPAL CODE TO ADOPT BY REFERENCE CALIFORNIA CODE OF REGULATIONS, TITLE 24 PART 2, VOLUMES 1 & 2 AND ADDING CHAPTER 12, "POST DISASTER ASSESSMENT," TO TITLE 9 RELATING TO BUILDING REGULATIONS

WHEREAS, Health and Safety Code Section 18938 makes provisions published in the California Building Standards Code pursuant to Health and Safety Code Section 17922 applicable to all occupancies throughout the State and effective one hundred and eighty days after publication by the California Building Standards Commission (the Commission), or at a later date established by the Commission; and

WHEREAS, Health and Safety Code Section 17958.5 permits cities in adopting provisions of the California Building Standards Code to make such changes in such provisions as the city determines, pursuant to Health and Safety Code Section 17958.7, are reasonably necessary because of local climatic, geological, or topographical conditions; and

WHEREAS, Health and Safety Code Section 17958.7 requires that a city, before making changes pursuant to Health and Safety Code Section 17958.5, must make an express finding that such changes are reasonably necessary because of local climatic, geological or topographical conditions; and

WHEREAS, under Health and Safety Code Section 17958.7, changes pursuant to Health and Safety Code Section 17958.5 may not become effective until the required findings, and the changes, have been filed with the California Building Standards Commission; and

WHEREAS, Government Code Section 50022.2 permits enactment of City Ordinances that adopt codes or statutes, including codes of the State of California, by reference; and

WHEREAS, notice of the Ordinance was published in accordance with Government Code Sections 50022.3 and 6066; and that such notice was sufficient to give notice to interested persons of the purpose of the ordinance and the subject matter thereof; and

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

SECTION 1. Articles 1, 2, 8, and 16 of Chapter 1 “Building Code,” of Title 9

“Building Regulations” of the Modesto Municipal Code is hereby amended to read as follows:

Article 1. - Adoption by Reference of the 2016 California Building Code

9-1.101 - Adoption by Reference of the 2016 California Building Code.

That certain document, one (1) copy of which is on file in the Office of the City Clerk of the City of Modesto, being marked and designated as the 2016 California Building Code, California Code of Regulations, Title 24, Part 2, Volumes 1 and 2, as published by the International Code Council, as now existing, or hereafter amended, regulating and governing the conditions of all properties, buildings, and structures; by providing the standards for facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupancy and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures; providing for the issuance of permits and collection of fees therefor; and providing penalties for the violation thereof; and each and all of the regulations, provisions, penalties, conditions and terms of said 2016 California Building Code on file in the Office of the City Clerk of the City of Modesto is hereby referred to, adopted and made a part hereof, as if fully set out in this ordinance, with the additions, deletions, insertions and changes, if any, prescribed in this Chapter, be and hereby is adopted as the Building Code of the City of Modesto.

9-1.101.2 - Adoption by Reference of the 2016 California Residential Code.

That certain document, one (1) copy of which is on file in the office of the City Clerk at the City of Modesto, being marked and designated as the California Residential Code, 2016 edition, California Code of Regulations Title 24, Part 2.5 as published by the International Code Council, regulating and governing the conditions of residential detached one- and two-family dwellings by providing the standards for facilities and other physical things and conditions essential to ensure that these structures are safe, sanitary and fit for occupation and use; and the demolition of such structures as herein

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provided, providing for the issuance of permits and collection of fees therefor; and providing penalties for the violation thereof, and each and all of the regulations; provisions, penalties, conditions and terms of said building code on file in the office of the City Clerk of the City of Modesto are hereby referred to, adopted and made part hereof, as if fully set out in this ordinance with the additions, deletions and changes, if any prescribed in this chapter, be and hereby are adopted by reference as the Building Code of the City of Modesto.

Article 2. - General Code Provisions

9-1.201 - Title.

These regulations shall be known as the "Building Code of the City of Modesto," and may be cited and referred to herein as such or may be cited and referred to herein as the "Building Code," the "2016 California Building and 2016 California Residential Code," the "California Building and Residential Code," or "this Code."

9-1.202 - Purpose.

The purpose of this Code is to establish the minimum requirements to safeguard the public health, safety, and general welfare through structural strength, means of egress facilities, stability, access for persons with disabilities, sanitation, adequate light and ventilation, and energy conservation; safety to life and property from fire and other hazards attributed to the built environment; and to provide safety to firefighters and emergency responders during emergency operations.

9-1.203 - Scope.

The provisions of this Code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures throughout the City of Modesto.

9-1.204 - Appendices.

Provisions contained in the appendices of the 2013 California Building Code and the 2013 California Residential Code shall not apply unless specifically adopted by the State of California Building Standards Commission or the City of Modesto.

9-1.205 - Most Restrictive—Specific Requirement.

Where, in any specific case, different sections of this Code 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.

9-1.206 - Other Laws.

The provisions of this Code shall not be deemed to nullify any provision(s) of local, state, or federal law.

9-1.207 - Application of References.

References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this Code.

9-1.208 - Referenced Codes and Standards.

The codes and standards referenced in this Code shall be considered part of the requirements of this Code to the prescribed extent of each such reference. Where differences occur between provisions of this Code and referenced codes and standards, the provisions of this Code shall apply, unless stated otherwise.

9-1.209 - Partial Invalidity.

In the event that any part or provision of this Code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions of this Code.

9-1.210 - Maintenance.

All plumbing, mechanical, electrical system, materials, and appurtenances, both existing and new, and all parts thereof, shall be maintained in proper operating condition. All devices or safeguards required by this Code shall be maintained in conformance with the code edition under which installed.

9-1.211 - Existing Structures.

The legal occupancy of any structure existing on the date of adoption of this Code shall be permitted to continue without change, except as is specifically covered in this Code, the California Mechanical Code, or the California Fire Code, or as is deemed necessary by the Building Official for the general safety and welfare of the occupants and the public.

9-1.212 - Existing Installations.

Plumbing, mechanical, and electrical systems or equipment lawfully in existence at the time of the adoption of this Code may have their use, maintenance, or repair continued if the use, maintenance, or repair is in accordance with the original design and location and no hazard to life, health, or property has been created by such system or equipment.

Article 8. –Inspections**9-1.801 - General.**

Construction or work for which a permit is required shall be subject to inspection by the Building Official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this Code or of any local, state, or federal law. Inspections presuming to give authority to violate or cancel the provisions of this Code or of other local, state, or federal law 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 Building Official nor the City of Modesto shall be liable

for expense entailed in the removal or replacement of any material required to allow inspection.

9-1.802 - Preliminary Inspection.

Before issuing a permit, the Building Official is authorized to examine or cause to be examined buildings, structures, and sites for which an application has been filed.

9-1.803 - Required Inspections.

The Building Official, upon notification, shall make the inspections set forth in Sections 9-1.804 through 9-1.813.

9-1.804 - Types of Inspections.

For onsite construction, from time to time the Building Official, upon notification from the permit holder or his agent, shall make or cause to be made any necessary inspections and shall either approve that portion of the construction as completed or shall notify the permit holder or his or her agent wherein the same fails to comply with this Code. The Building Safety Division, upon notification of the permit holder or their agent, shall within a reasonable time make the inspections set forth in Sections 9-1.805 through 9-1.813.

Note: Reinforced 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 Building Official.

9-1.805 - Footing and Foundation Inspection.

Inspection of the foundation and footings shall be made after poles or piers are set or trenches or basement areas are excavated and any required forms erected and any required reinforcing steel is in place and supported prior to the placing of concrete. The foundation or footing inspection shall include excavations for thickened slabs intended for the support of bearing walls, partitions, structural supports, or equipment and special requirements for wood foundations. Materials for the foundation shall be on the job site except where concrete is ready-mixed in accordance with ASTM C94. Under this circumstance concrete is not required to be at the job site.

9-1.805.1 - Concrete Slab and Underfloor Inspection.

Concrete slab and underfloor inspections shall be made after in-slab or underfloor reinforcing steel and 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 the subfloor.

9-1.806 - Flood Plain Inspections/Lowest Floor Elevation.

For construction in areas prone to flooding as established by Table R301.2(1) of the California Residential Code upon placement of the lowest floor, including basement, and prior to further vertical construction, the Building Official shall require submission of documentation, prepared and sealed by a registered design professional, of the elevation of the lowest floor, including basement, required in Section R322. In flood hazard areas,

upon placement of the lowest floor, including the basement, and prior to further vertical construction, the elevation certification required in Chapter 16 of the California Building Code shall be submitted to the Building Official.

9-1.807 - Frame and Masonry Inspection.

Inspection of framing and masonry construction shall be made after the roof, masonry, all framing, firestopping, draftstopping and bracing are in place and after chimneys and vents to be concealed are completed and the rough electrical, plumbing, heating wires, pipes and ducts are approved.

9-1.807.1 - Moisture Content Verification.

Moisture content of framing members shall be verified in accordance with the California Green Building Standards Code (CALGreen).

9-1.808 - Lath and Gypsum Board Inspection.

Lath and gypsum board inspections shall be made after lathing and gypsum board, interior and exterior, is in place, but before any plastering is applied or gypsum board joints and fasteners are taped and finished.

Exception. Gypsum board that is not part of a fire-resistance-rated assembly or a shear assembly.

9-1.809 - Fire-Resistant Penetrations.

Protection of joints and penetrations in fire-resistance-rated assemblies shall not be concealed from view until inspected and approved.

9-1.810 - Energy Efficiency Inspections.

Inspections shall be made to determine compliance with the California Energy Code and shall include, but not be limited to, inspections for: envelope insulation R and U values, fenestration U value, duct system R value, and HVAC and water-heating equipment efficiency.

9-1.811 - Other Inspections.

In addition to the inspections specified above, the Building Official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this Code and other laws that are enforced by the Building Safety Division.

9-1.811.1 - Fire-Resistance-Rated Construction Inspection.

Where fire-resistance-rated construction is required between dwelling units or due to location on property, the Building Official shall require an inspection of such construction after all lathing and/or wallboard is in place, but before any plaster is applied, or before wallboard joints and fasteners are taped and finished. Protection of joints and penetrations in fire resistance rated assemblies shall not be concealed from view until inspected and approved.

9-1.812 - Special Inspections

For special inspections, see the California Building Code.

9-1.813 - Final Inspection.

The final inspection shall be made after all work required by the building permit is completed.

9-1.814 - Reinspections.

A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when required corrections have not been made.

This provision is not to be interpreted as requiring reinspection fees the first time an inspection is rejected for failure to comply with the requirements of this Code, but as controlling the practice of calling for inspection before the project is ready for inspection or reinspection. Reinspection fees may be assessed:

- (a) When the approved plans are not readily available to the inspector.
- (b) For failure to provide access on the date for which the inspection is requested.
- (c) For any deviation from plans requiring the approval of the Building Official.

To obtain reinspection, the applicant shall file an application therefor in writing upon a form for that purpose and pay the reinspection fee as adopted from time to time by resolution of the City Council of the City of Modesto.

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

9-1.815 - Inspection Agencies.

The Building Official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

9-1.816- Inspection Request.

It shall be the duty of the holder of the building permit or their duly authorized agent to notify the Building Official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this Code.

9-1.817 - Approval Required.

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

Article 16. - Technical Amendments to the 2013 California Building Code

9-1.1601 - Deleted Sections.

9-1.1602 - Amended Sections.

9-1.1602.1 - Definitions.

Section 202 of the 2013 California Building Code is hereby amended to read as follows:

BUILDING OFFICIAL. The officer or other designated authority charged with the administration and enforcement of this Code, or duly authorized representative. The office and title of Chief Building Official of the City of Modesto shall serve as the officer responsible for administration and enforcement of this Code.

9-1.1602.2 - Structural Design.

Section 1612.3 of the 2013 California Building Code is hereby amended to read as follows:

1612.3. ESTABLISHMENT OF FLOOD HAZARD AREAS.

To establish flood hazard areas, the governing body shall adopt a flood hazard map and supporting data. The flood hazard map shall include, at minimum, areas of special flood hazard as identified by the Federal Emergency Management Agency in an engineering report entitled "The Flood Insurance Study for the City of Modesto", dated September 26, 2008, as amended or revised with the accompanying Flood Insurance Rate Map (FIRM) and Flood Boundary and Floodway Map (FBFM) and related supporting data along with any revisions thereto. The adopted flood hazard map and supporting data are hereby adopted by reference and declared to be part of this section.

9-1.1602.3 – Structural Tests and Special Inspections

Section 1704.2 of The 2016 California Building Code Is Hereby Amended to Read As Follows:

1704.2. Special inspections and Tests.

Where application is made to the building official for the construction as specified in *Title 9 Chapter 1 Article 5 Permits* or 1.8.4, applicable, the owner or the owner's agent, other than the contractor, shall employ one or more approved agencies to provide special inspections and tests during construction on the types of work specified in Section 1705 and identify the approved agencies to the building official. These special inspections and tests are in addition to the inspection by the building official that are identified in *Title 9 Chapter 1 Article 8*

Chapter 12 "Post Disaster Assessment" of Title 9 "Building Regulations" of the Modesto Municipal Code is hereby added to read as follows:

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12-1.101- Intent.

This chapter establishes standard placards to be used to indicate the condition of a building and/or structure for continued occupancy. This chapter further authorizes the Building Official and his or her authorized representatives to post the appropriate placard at each entry point to a building and/or structure upon completion of a safety assessment.

12-1.102 - Application of Provisions.

The provisions of this chapter are applicable to all buildings of all occupancies regulated by the City.

12-1.103 - Safety Assessment Defined.

“Safety assessment” means a visual, nondestructive examination of a building and/or structure for the purpose of determining the condition for continued occupancy.

12-1.104 - Placards.

Official jurisdiction placards use three (3) categories to designate the condition for continued occupancy of buildings and/or structures as follows:

- (a) Inspected – Lawful Occupancy Permitted. This category description is to be posted on any building and/or structure wherein no apparent structural hazard has been found. This placard is not intended to mean that there is no damage to the building and/or structure.
- (b) Restricted Use. This category description is to be posted on each building and/or structure that has been damaged wherein the damage has resulted in some form of restriction to the continued occupancy. The individual who posts this placard shall note the type of damage encountered and shall note the restrictions on continued occupancy.
- (c) Unsafe – Do Not Enter or Occupy. This category description is to be posted on each building and/or structure that has been damaged such that continued occupancy poses a threat to life safety. Buildings and/or structures posted with this placard shall not be entered under any circumstance except as authorized in writing by the Building Official, or his or her authorized representative. Safety assessment teams shall be authorized to enter these buildings and/or structures at any time. This placard is not to be used or considered as a demolition order. The individual who posts this placard shall note the type of damage encountered.

12-1.105 - Placard Contents.

Placards referenced in this chapter should include all of the following information:

- (a) Name of the jurisdiction.
- (b) Address and phone number of jurisdiction.
- (c) The category designated in MMC Section 9-1.1504 that the building’s and/or structure’s condition conforms to. This designation should be in bold face type.
- (d) For “inspected” placards the language “Lawful Occupancy Permitted.”

- (e) For “restricted use” placards the language “Caution: This building and/or structure has been inspected and found to be damaged as described:” and “Entry, occupancy and lawful use are restricted as indicated:”
- (f) For “unsafe” placards the language “Do not enter or occupy (This placard is not a demolition order). This building and/or structure has been inspected, found to be seriously damaged and is unsafe to occupy, as described:” and “Do not enter, except as specifically authorized in writing by jurisdiction. Entry may result in injury or death.”
- (g) The address of the building and/or structure inspected.
- (h) The advisement “Caution: Aftershocks since inspection may increase damage and risk.”
- (i) The date and time of inspection.
- (j) The name, employing agency and, if applicable, the identification number of the inspector.
- (k) The advisement “Do not remove, alter or cover this placard until authorized by the Building Official (MMC 9-1.1506).”

12-1.106 - Removal Prohibited.

Once a placard has been attached to a building and/or structure, a placard is not to be removed, altered or covered until done so by an authorized representative of the Building Official. It shall be a misdemeanor enforced pursuant to Modesto Municipal Code Title 1 Chapter 6 Administrative Remedies for any person or entity to alter, remove, cover or deface a placard unless authorized pursuant to this chapter.

SECTION 3. EFFECTIVE DATE. This ordinance shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

SECTION 4. PUBLICATION. At least two (2) days prior to its final adoption, copies of this ordinance shall be posted in at least three (3) prominent and distinct locations in the City; and a notice shall be published once in *The Modesto Bee*, the official newspaper of the City of Modesto, setting forth the title of this ordinance, the date of its introduction and the places where this ordinance is posted.

SECTION 5. CALIFORNIA ENVIRONMENTAL QUALITY ACT. The City Council finds that adoption of this ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., “CEQA,” and 14 Cal. Code Reg. §§ 15000 et seq., “CEQA Guidelines”) under the general rule that CEQA

applies only to projects that have the potential for causing a significant effect on the environment, and in this case it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment (CEQA Guidelines § 15061(b)(3)).

SECTION 6. SEVERABILITY CLAUSE. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance. The Council hereby declares that it would have adopted the ordinance, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared invalid.

The foregoing ordinance was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of November, 2016, by Councilmember Kenoyer, who moved its introduction and passage to print, which motion being duly seconded by Councilmember Ridenour, was upon roll call carried and ordered printed and published by the following vote:

AYES:	Councilmembers:	Ah You, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Grewal

APPROVED: _____
TED BRANDVOLD, Mayor

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
ADAM U. LINDGREN, City Attorney

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FINAL ADOPTION CLAUSE

The foregoing ordinance, having been published as required by the Charter of the City of Modesto, and coming on for final consideration at the regular meeting of the Council of the City of Modesto held on the 6th day of December, 2016, Councilmember Kenoyer, moved its final adoption, which motion being duly seconded by Councilmember Ridenour, was upon roll call carried and the ordinance adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Ridenour, Zoslocki,
Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: Madrigal

APPROVED: _____
TED BRANDVOLD, Mayor

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

Effective Date: January 06, 2017