Subject:

Recommendation:
Staff recommends that the City Council conduct the first reading of an “Ordinance of the City Council of the City of Cupertino:

1. Amending Chapter 16.58 of Title 16 of the Cupertino Municipal Code to adopt the 2013 California Green Building Standards Code related to Plug-In Electrical Vehicle Charging Systems with certain modifications; and

2. Amending Chapter 1.08 of Title 1 of the Cupertino Municipal Code Regarding the Right of Entry.”

Discussion:
On November 19, 2013, the Cupertino City Council conducted the second reading of the ordinance necessary to adopt, amend and implement the 2013 Uniform Building Standards Code. At that time, staff recommended that two items be returned to Council for review: (1) requirements for electrical charging station systems; and (2) clarification of the right of entry. This action addresses these remaining items.

A. Pre-wiring for Electrical Vehicles

The purpose of the proposed Ordinance is to require pre-wiring for electric vehicle charging systems in new buildings to lower the cost for the future installation of those systems. By pre-wiring buildings and parking areas, future electric vehicle charging systems can be installed later at a minimal cost, which lowers barriers to the use of electric vehicles.

The proposed amendments to Chapter 16.58 of the Cupertino Municipal Code set forth minimum pre-wiring requirements for Electric Vehicle Supply Equipment (EVSE) in new development. The application of these requirements will further the goals and policies of the City regarding environmental protection and will reduce future greenhouse gas emissions in accordance with the goals established under AB 32 - Global Warming Solutions Act.
Comparison with Ordinances in Other Jurisdictions

Other jurisdictions that have adopted or are in the process of adopting a similar EVSE ordinance are the City of Sunnyvale, the City of Palo Alto, and the County of Santa Clara. The City of Sunnyvale adopted an ordinance to require pre-wiring for electric vehicle chargers for residential garages/carports, residential shared parking facilities, and new industrial, research and development, and office buildings having 100 parking spaces or more. The City of Palo Alto introduced a similar ordinance at the regular City Council meeting in September, 2013. Although the ordinance was not approved, staff was directed to follow through with several items. Staff plans to take the ordinance back to Council in mid-2014. The County of Santa Clara adopted a very similar ordinance in December 2013, as this ordinance presented to the Cupertino City Council.

Ordinance Highlights

The proposed Ordinance adopts, for the most part, the California Green Building Code related to electrical vehicle charging stations. The ordinance requires:

- For new one- and two-family dwellings, one- and two-family dwelling rebuilds, new multi-family dwellings, and new non-residential buildings, a listed conduit such as a metal or plastic pipe, (otherwise referred to as a raceway) is required to be installed from the main building electrical panel out to the parking area. The minimal cost of installing the raceway will alleviate increased expenses of installing such wiring in the future and encourage use of electric vehicles.

- For new multi-family dwellings, and new non-residential buildings, at least 3% of parking spaces, but no less than one, must be capable of supporting future electrical vehicle supply equipment. This is consistent with the lower Tier 1 voluntary requirement in the California Green Building Code. Tier 2 requires at least 5% of the parking spaces, but not less than two, to be capable of supporting future EVSE systems. Other provisions of the ordinance relate to the method of installation and the labeling requirements.

Findings

To the extent the requirement of this ordinance are deemed to constitute changes or modifications to the requirements of the California Building Standards Code and the other regulations adopted pursuant to Health and Safety Code Section 17922, a City is required to adopt findings that the provisions of the ordinance are reasonably necessary because of local climatic, geological, or topographical conditions. The findings are listed in detail in the ordinance amending Chapter 16.58 (Attachment A).
B. **Right of Inspection**

During the review of the Building Code, it became clear that Chapter 1.08, although entitled the “Right of Entry for Inspection”, improperly refers to “search warrants.” A search warrant is obtained for criminal investigations. In contrast, Chapter 1.08 of Cupertino Municipal Code governs the circumstances when a city official, in the course of his or her duties, needs a court order to be able to carry out his necessary function. State law defines this as an “inspection” warrant.

In order to obtain an inspection warrant, under state law, the City must apply to the Court and demonstrate that the public official needs the inspection which is required or authorized by state or local law or regulation relating to “building, fire, safety, plumbing, electrical, health, labor, or zoning.” (Code of Civ. Proc. §1822.50.) Cause exists for an inspection warrant if there are legislative or administrative standards for a routine or area inspection, or if there is reason to believe that a condition exists that does not conform to the Code. (Code of Civ. Proc. §1822.52.)

For the Building Official, Cupertino Municipal Code Section 16.02.090 describes when a building official needs to enter a structure to fulfill his or her duties. If the Building Official is refused entry, however, then the City must obtain an inspection warrant from the Court, unless the exceptions exist (in an emergency, for example). Thus, the Building Official’s duties under the Municipal Code are the first step in presenting the Court with a need for an inspection warrant. It is recommended that those duties remain unchanged.

However, to clarify the process, the proposed Ordinance replaces the term “search warrant” with “inspection warrant” to appropriately characterize the type of order needed from the Court.

**Environmental Review:**

The adoption of these amendments is categorically exempt from the provision of the California Environmental Quality Act of 1970, as amended, pursuant to Section 15308 of the CEQA Guidelines (14 Cal. Code of Regs. §15308) because it is an action taken by a regulatory agency for the protection of the environment and no exceptions to this categorical exemption apply.

**Fiscal Implications:**

There are no fiscal impacts to the General Fund as a result of this action.
See, Penal Code Section 1525, and following.