

[CLEAN version]

ORDINANCE 2024-04

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ENCINITAS, CALIFORNIA,
ADOPTING AMENDMENTS TO CHAPTER 23.12 (UNIFORM CODES FOR CONSTRUCTION)
OF TITLE 23 (BUILDING AND CONSTRUCTION) OF THE ENCINITAS MUNICIPAL CODE
TO MAKE CERTAIN AMENDMENTS, ADDITIONS, AND DELETIONS RELATED TO
ENERGY EFFICIENCY AND GREEN BUILDING**

WHEREAS, the City of Encinitas desires to amend Sections 23.12.080 and 23.12.110 of Chapter 23.12 (Uniform Codes for Construction) of Title 23 (Building and Construction) of the City of Encinitas Municipal Code to implement goals and objectives set forth in the Climate Action Plan for reducing greenhouse gas (GHG) emissions, conserving energy, encouraging green buildings, protecting the natural environment, and protecting the health of residents and visitors;

WHEREAS, the California Global Warming Solutions Act of 2006, known as AB 32, established a statewide goal of reducing greenhouse gas emission to 1990 levels by 2020 and to a level 80 percent below 1990 levels by 2050, and directs the California Air Resources Board to develop a strategy to achieve such reductions;

WHEREAS, the State of California Climate Strategy identifies key strategies for addressing climate change that includes increasing renewable energy usage, doubling energy efficiency savings in existing buildings, and, making heating fuels cleaner;

WHEREAS, the City Council of the City of Encinitas adopted CEQA-qualified Climate Action Plan on January 17, 2018, aligning local climate action policies with the State of California Climate Strategy including the adoption strategies and goals to procure grid available electricity from 100 percent renewable energy sources, increase energy efficiency in residential and non-residential buildings, and promote the installation of local renewable energy sources at homes and businesses;

WHEREAS, the City of Encinitas Climate Action Plan found that buildings are the second largest contributor to GHG emissions, accounting for 39 percent of its total emissions in 2012;

WHEREAS, the United Nations Intergovernmental Panel on Climate Change (IPCC) has warned that failure to address the causes of global climate change within the next few years will result in sea level rise, increased frequency of wildland fires, and reduced freshwater resources, which will significantly increase the cost of providing local governmental services and protecting public infrastructure;

WHEREAS, the City Council of the City of Encinitas adopted Resolution 2020-90 declaring a climate emergency on December 16, 2020;

WHEREAS, Health and Safety Code (HSC) Section 18941.5, with reference to HSC Section 17958.7, allows for more restrictive local amendments to the California Building Standards Code that are reasonably necessary because of local climatic, geological, or topographical conditions;

WHEREAS, the following climatic, geologic, and topographical conditions exist in the City of Encinitas:

1. The City has over six (6) miles of beaches, several creeks, and other low-lying areas prone to flooding. The City is at risk to coastal storm damage, erosion, and flooding. There is

broad scientific consensus that the earth will continue to warm, and sea levels will rise impacting beaches, roads, properties, infrastructure, and environmentally sensitive areas.

2. The City has experienced increases in annual temperature. Annual temperatures have increased more than 1-degree Fahrenheit in many parts of the state and have exceeded increases of 2-degree Fahrenheit in areas that include the San Diego region. Temperature increases are expected to continue into the future.
3. The City is situated in hilly, coastal and inland terrain. Approximately 50 percent of the City is covered by native vegetation on steep and frequently inaccessible hillsides. The native vegetation consists of highly combustible grasses, dense brush, and chaparral, and could pose a wildfire risk. Natural firebreaks in these areas are significantly lacking.
4. The City experiences seasonal climatic conditions during the late summer and fall that can result in frequent Santa Ana weather patterns. Dry, hot, strong, and gusty Santa Ana wind conditions produces extreme dryness and some of the highest wind events in San Diego County, resulting in some of the region's most catastrophic wildfires. These fires impact public health in the populated coastal zone through extreme heat and smoke.
5. The City acts to address environmental conditions that impact public health and welfare. Sustainability and resiliency are core values of the City's General Plan and Climate Action Plan. Energy efficiency promotes public health and welfare by enhancing the environmental and economic health of the City through green practices in design, construction, maintenance, and operation of new and existing buildings. Construction of energy efficient buildings and installation of renewable energy systems protects the public health and welfare by reducing air pollution, greenhouse gas emissions, average and peak energy demand, and adverse impacts from power outages.
6. Amendments to the California Energy Code are reasonably necessary to promote energy efficiency and conservation in the City, reduce GHG emissions, promote green development patterns, and maintain a long-term balance between environmental, social, and economic impacts that protect public health and welfare.

WHEREAS, Public Resources Code (PRC) Section 25402.1(h)(2) and the California Energy Code, Title 24, Part 6, Section 10-106 establish a process by which local governments may adopt more stringent standards to the energy efficiency and conservation provisions in the California Energy Code, Title 24, Part 6, provided that the standards have been determined to be cost effective and will require buildings to be designed to consume no more energy than permitted by the California Energy Code;

WHEREAS, the following studies commissioned by the California Statewide Energy Codes and Standards Program demonstrate that the local amendments are cost effective and do not result in buildings consuming more energy than is permitted by the California Energy Code:

1. 2022 Cost-effectiveness Study: Single Family New Construction (March 2024); and
2. 2022 Cost-effectiveness Study: Multifamily New Construction (June 2023);

WHEREAS, it has been determined that the minor amendments proposed will not have a significant effect on the environment because the strengthened requirements reduce hazards and accommodate features to reduced environmental effects. Adoption of the amendments is exempt from environmental review as per Section 15308 of the CEQA Guidelines, which allows a categorical exemption for "actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment." Furthermore, the amendments were previously evaluated in the Final Negative Declaration (ND) for the Climate Action Plan (Case No. 17-224), dated December 5, 2017, and Addendum to the ND (Case No. ENV-004106-2020), dated Oct 20, 2020. The ND and the Addendum evaluated

the potential environmental effects of the implementation of the Climate Action Plan including, the adoption and enforcement of energy efficiency and renewable energy ordinances. This project is within the scope of the Final Negative Declaration and the Addendum, and no further California Environmental Quality Act (CEQA) compliance is required; and

WHEREAS, the City Council of the City of Encinitas now seeks to amend Sections 23.12.080 and 23.12.110 of Chapter 23.12 to reflect its Climate Action Plan.

NOW, THEREFORE, the City Council of the City of Encinitas, California, hereby ordains as follows:

SECTION ONE: ENERGY CODE AMENDMENTS.

That Encinitas Municipal Code Chapter 23.12, Uniform Codes for Construction, Section 23.12.080, Subsections F., G., H., I., J., K., L., M. and N., Adoption of the 2022 California Energy Code, Part 6, Title 24 of the California Code of Regulations, is hereby amended to modify or add the following sections as specified herein:

There is adopted and incorporated by reference herein as the City's Energy Code for the purpose of prescribing regulations in the City of Encinitas for the conservation of energy, the 2022 California Energy Code, Part 6, Title 24 of the California Code of Regulations, a portion of the 2022 California Building Standards Code, as defined in the California Health and Safety Code, Section 18901 et seq. Except as otherwise provided by this section of the City of Encinitas Municipal Code, all construction of buildings where energy will be utilized shall be in conformance with 2022 California Energy Code and any rules and regulations promulgated pursuant thereto, including the California Energy Code, 2022 Edition, published by the California Energy Commission.

F. Applicability. Requirements A through E apply to all building permit applications filed on or after January 1, 2023, or the effective date, whichever is later. On or after August 2, 2022, and until December 31, 2022, or the effective date of the ordinance codified in this section, whichever is later, the requirements adopted by Ordinance No. 2021-13 shall apply.

G. Section 100.1(b) DEFINITIONS, of the California Energy Code is hereby amended to add a definition to read:

CERTIFIED ENERGY ANALYST is a person registered as a Certified Energy Analyst with the California Association of Building Energy Consultants as of the date of submission of a Certificate of Compliance as required under Section 10.103.

H. The first two paragraphs of Section 150.0 of the California Energy Code are hereby amended to read:

SECTION 150.0 – MANDATORY FEATURES AND DEVICES

Single-family residential buildings shall comply with the applicable requirements of Sections 150(a) through 150.0(v).

NOTE: The requirements of Sections 150.0(a) through 150.0(v) apply to newly constructed buildings. Sections 150.2(a) and 150.2(b) specify which requirements of Sections 150.0(a) through 150.0(r) also apply to additions or alterations.

I. Section 150.0(t) of the California Energy Code is hereby amended to read:

Section 150.0(t) - Heat Pump Space Heater Ready.

Systems using gas or propane furnace to serve individual dwelling units shall include the following:

1. A dedicated 240-volt branch circuit wiring shall be installed within 3 feet from the furnace and accessible to the furnace with no obstructions. The branch circuit conductors shall be rated at 30 amps minimum. The blank cover shall be identified as “240V ready”. All electrical components shall be installed in accordance with the California Electrical Code.
2. The main electrical service panel shall have a reserved space to allow for the installation of a double pole circuit breaker for a future heat pump space heater installation. The reserved space shall be permanently marked as “For Future 240V use”.
3. A designated exterior location for a future heat pump compressor unit with either a drain or natural drainage for condensate.

J. Section 150.1(b)1A of the California Energy Code is hereby added to read:

Section 150.1(b)1A

In addition, the total source energy (EDR1) of the Proposed Design Building shall be less than the EDR1 of the Standard Design Building by a compliance margin of 4.5.

EXCEPTION 1 to Section 150.1(b)1.A. If the Certificate of Compliance is prepared and signed by a Certified Energy Analyst, the compliance margin may be reduced by one point, but in no event shall be less than zero.

EXCEPTION 2 to Section 150.1(b)1.A. A dwelling unit with a conditioned floor space of 1,500 square feet or less.

K. Sections 160.9(a), (b), and (c) of the California Energy Code are hereby renumbered as Sections 160.9(b), (c), and (d), respectively.

L. A new Section 160.9(a) of the California Energy Code is added to read as follows:

- (a) General Requirements. Multifamily buildings shall comply with the applicable requirements of subsection 160.9. The building electrical system shall be sized to meet the future electric requirements of the electric ready equipment specified in sections 160.9(a) through (e). The building main service conduit, the electrical system to the point specified in each subsection, and any on-site distribution transformers shall have sufficient capacity to supply full rated amperage at each electric ready appliance in accordance with the California Electrical Code.

M. A new Section 160.9(e) of the California Energy Code is added to read as follows:

- (e) Individual Heat Pump Water Heater Ready. Systems using gas or propane water heaters to serve individual dwelling units shall include the following components:
 1. A dedicated 125-volt, 20 amp electrical receptacle that is connected to the electric panel with a 120/240 volt 3 conductor branch circuit rated to 30 amps minimum, within 3 feet from the water heater and accessible to the water heater with no obstructions. In addition, all the following:
 - A. Both ends of the unused conductor shall be labeled with the word “spare” and be electrically isolated; and
 - B. A reserved single pole circuit breaker space in the electrical panel adjacent to the circuit breaker for the branch circuit in A above and labeled with the words “Future 240V Use”; and
 2. A condensate drain that is no more than 2 inches higher than the base of the installed water heater, and allows natural draining without pump assistance, and

3. The construction drawings shall designate a space at least 39 inches by 39 inches and 96 inches tall for the future location of heat pump water heater.
4. A ventilation method meeting one of the following:
 - A. The designated space for the future heat pump water heater shall have a minimum volume of 700 cubic feet; or
 - B. The designated space for the future heat pump water heater shall vent to a communicating space in the same pressure boundary via permanent openings with a minimum total NFA of 250 square inches., so that the total combined volume connected via permanent openings is 700 cubic feet or larger. The permanent openings shall be:
 - i. Fully louvered doors with fixed louvers; or
 - ii. Two permanent fixed openings located within 12 inches from the enclosure top and bottom;
 - C. The designated space for the future heat pump water heater shall include two 8-inch capped ducts, venting to the building exterior:
 - i. All ducts, connections, and building penetrations shall be sealed.
 - ii. Exhaust air ducts and all ducts which cross pressure boundaries shall be insulated to a minimum insulation level of R-6.
 - iii. Airflow from termination points shall be diverted away from each other.

N. A new Section 160.9(f) of the California Energy Code is added to read as follows:

(f) Heat Pump Water Heater Ready.

1. Central water heating systems using gas or propane to serve multiple dwelling units shall include the following elements for future conversion to electric heat pump technology:
 - a. Space reserved for heat pumps and tanks for service clearances and airflow clearances.
 - b. Pathways and penetrations reserved for ventilation.
 - c. Condensate drainage piping.
 - d. Electrical capacity for heat pumps and temperature maintenance tanks.
2. Compliance with this section shall be demonstrated in a manner prescribed by “Guidance for Electric Readiness of Multifamily Central Hot Water Systems” issued and periodically amended, as needed, by the Building Official.

O. Section 170.1 of the California Energy Code is hereby amended to read:

SECTION 170.1 – PERFORMANCE APPROACH: ENERGY BUDGETS

A building complies with the performance approach if the TDV energy budget calculated for the Proposed Design Building under Subsection (b) is no greater than the TDV energy budget calculated for the Standard Design Building under Subsection (a). Additionally, the energy budget, expressed in terms of source energy, of a newly constructed low-rise multifamily building (less than four habitable stories) shall be at least eight (8) percent lower than that of the Standard Design Building.

EXCEPTION to Section 170.1. If the Certificate of Compliance is prepared and signed by a Certified Energy Analyst, the compliance margin may be reduced by one percentage point, but in no event shall be less than zero.

SECTION TWO: GREEN BUILDING CODE AMENDMENTS.

That Encinitas Municipal Code Chapter 23.12, Uniform Codes for Construction, Section 23.12.110, Subsections A., B., C. and G., Adoption of the 2022 California Green Building Standards Code, Part 11, Title 24 of the California Code of Regulations, is hereby amended to modify or add the following sections as specified herein:

There is adopted and incorporated by reference herein as the City's Green Building Code for the purpose of prescribing regulations in the City of Encinitas for enhancing the design and construction of buildings, through the use of building concepts having a reduced negative impact or positive environmental impact and encouraging sustainable construction practices the 2022 California Green Building Standards Code, Part II, Title 24 of the California Code of Regulations, a portion of the 2022 California Buildings Standards Code, as defined in the California Health and Safety Code, Section 18901 et seq., and the California Green Building Standards Code, 2022 Edition. Except as otherwise provided by this section of the City of Encinitas Municipal Code, all construction of buildings shall be in conformance with the 2022 California Building Standards Code and any rules and regulations promulgated pursuant thereto, including the California Green Building Standards Code, 2022 Edition, published by the California Building Standards Commission.

- A. Section 202 DEFINITIONS, is hereby amended to add or modify the following definitions to the 2022 California Green Building Standards Code to read:

Newly Constructed Building (or New Construction) shall have the meaning defined in Title 24, Part 2, Chapter 2, Section 202, as amended.

B. Reserved.

C. Reserved.

- G. Section 5.106.5.3.2.1 Additional Electric Vehicle Charger Requirements for Nonresidential Buildings, is hereby added to the 2022 California Green Building Standards Code Section to read:

5.106.5.3.2.1 Additional electric vehicle charging station requirements for nonresidential buildings.

1. The total number of parking spaces provided with electric vehicle supply equipment (EVSE) required under Section 5.106.5.3.2 shall be at least 8% of the total number of parking spaces provided for all types of parking facilities, but in no case less than one. Calculations for the required number of EV spaces shall be rounded up to the nearest whole number. All EVSE and EV spaces shall be made available to all employees and patrons of the property.

2. For any nonresidential alteration or addition that requires a building permit with square footage larger than 10,000 sq. ft. as determined by the City of Encinitas Building Division, at least 8% of the total number of required parking spaces provided for all types of parking facilities allocated to the tenant space(s), but in no case less than one, shall be electric vehicle charging spaces (EV spaces). Each such space shall be equipped with, at a minimum, fully operational Level 2 electric vehicle supply equipment (EVSE). Calculations for the required number of EV spaces shall be rounded up to the nearest whole number. All EVSE and EV spaces shall be made available to all employees and patrons of the property in the same manner as other parking spaces. Refer to Sections 5.106.5.3.2 and 5.106.5.3.3 for design requirements.

3. These requirements shall apply to mixed occupancy buildings as specified in Section 302.

Exceptions:

On a case-by-case basis, where the local enforcing agency has determined EV charging and infrastructure are not feasible based upon one or more of the following conditions:

1. Where there is no local utility power supply or the local utility is unable to supply adequate power.
2. Where there is evidence suitable to the local enforcing agency substantiating that additional local utility infrastructure design requirements, directly related to the implementation of Section 5.106.5.3.2.1, may adversely impact the construction cost of the project.
3. Or other conditions as determined by the City.

SECTION THREE: FINDINGS.

The proposed amendments and changes to the California Energy Code, Part 6 of the California Building Standards Code, are reasonably necessary because of the following climatic, geologic, and topographical conditions exist in the City of Encinitas:

1. The City has over six (6) miles of beaches, several creeks, and other low-lying areas prone to flooding. The City is at risk to coastal storm damage, erosion, and flooding. There is broad scientific consensus that the earth will continue to warm, and sea levels will rise impacting beaches, roads, properties, infrastructure, and environmentally sensitive areas.
2. The City has experienced increases in annual temperature. Annual temperatures have increased more than 1-degree Fahrenheit in many parts of the state and have exceeded increases of 2-degree Fahrenheit in areas that include the San Diego region. Temperature increases are expected to continue into the future.
3. The City is situated in hilly, coastal and inland terrain. Approximately 50 percent of the City is covered by native vegetation on steep and frequently inaccessible hillsides. The native vegetation consists of highly combustible grasses, dense brush, and chaparral, and could pose a wildfire risk. Natural firebreaks in these areas are significantly lacking.
4. The City experiences seasonal climatic conditions during the late summer and fall that can result in frequent Santa Ana weather patterns. Dry, hot, strong, and gusty Santa Ana wind conditions produces extreme dryness and some of the highest wind events in San Diego County, resulting in some of the region's most catastrophic wildfires. These fires impact public health in the populated coastal zone through extreme heat and smoke.
5. The City acts to address environmental conditions that impact public health and welfare. Sustainability and resiliency are core values of the City's General Plan and Climate Action Plan. Energy efficiency promotes public health and welfare by enhancing the environmental and economic health of the City through green practices in design, construction, maintenance, and operation of new and existing buildings. Construction of energy efficient buildings and installation of renewable energy systems protects the public health and welfare by reducing air pollution, greenhouse gas emissions, average and peak energy demand, and adverse impacts from power outages.
6. Amendments to the California Energy Code are reasonably necessary to promote energy efficiency and conservation in the City, reduce GHG emissions, promote green development patterns, and maintain a long-term balance between environmental, social, and economic impacts that protect public health and welfare;

By adopting this ordinance, the City Council has determined, in a public meeting, that the standards are cost-effective according to the following studies:

1. 2022 Cost-effectiveness Study: Single Family New Construction (March 2024); and
2. 2022 Cost-effectiveness Study: Multifamily New Construction (June 2023).

SECTION FOUR: ENVIRONMENTAL COMPLIANCE.

The City Council finds in its independent judgment that the minor amendments proposed will not have a significant effect on the environment because the strengthened requirements reduce hazards and accommodate features to reduce environmental effects and that adoption of the amendments is exempt from environmental review as per Section 15308 of the CEQA Guidelines, which allows a categorical exemption for “actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.” Furthermore, the amendments were previously evaluated in the Final Negative Declaration (ND) for the Climate Action Plan (Case No. 17-224), dated December 5, 2017, and Addendum to the ND (Case No. ENV-004106-2020), dated Oct 20, 2020. The ND and the Addendum evaluated the potential environmental effects of the implementation of the Climate Action Plan, including the adoption and enforcement of energy efficiency and renewable energy ordinances. This project is within the scope of the Final Negative Declaration and the Addendum, and no further California Environmental Quality Act (CEQA) compliance is required.

SECTION FIVE: CONSISTENCY.

Any provision of the Encinitas Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to affect the provisions of this Ordinance.

SECTION SIX: SEVERABILITY.

If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional.

SECTION SEVEN: EFFECTIVE DATE.

This Ordinance shall take effect and be in force sixty (60) days after its passage and following approval of the California Energy Commission and filing with the California Building Standards Commission, whichever is later. The City Clerk of the City of Encinitas is hereby authorized to use summary publication procedures pursuant to Government Code Section 36933 utilizing the Coast News, a newspaper of general circulation published in the City of Encinitas.

This Ordinance was introduced at a regular meeting of the City Council held on May 15, 2024.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council held on the _____ day of _____.

Tony Kranz, Mayor

ATTEST:

Kathy Hollywood, City Clerk

APPROVED AS TO FORM

Tarquin Preziosi, City Attorney

CERTIFICATION: I, Kathy Hollywood, City Clerk of the City of Encinitas, California, do hereby certify under penalty of perjury that the foregoing ordinance was duly and regularly introduced at a meeting of the City Council on the 15th day of _May, 2024 and that thereafter the said ordinance was duly and regularly adopted at a meeting of the City Council on the _____ of _____, 2024 by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Encinitas, California, this _____ day of _____, 2024.

Kathy Hollywood, City Clerk