

**ORDINANCE NO. 3712**  
**ORDINANCE OF THE MARIN COUNTY BOARD OF SUPERVISORS ADOPTING**  
**AMENDMENTS TO PORTIONS OF MARIN COUNTY CODE TITLE 19 (BUILDING CODE)**

The **MARIN COUNTY BOARD OF SUPERVISORS** hereby ordains as follows:

**SECTION I: FINDINGS**

**WHEREAS**, the Marin County Community Development Agency initiated proposed amendments to Marin County Code Title 19 (Building Code). The Building Code includes building and energy efficiency regulations that apply to the unincorporated areas of Marin County. The project includes proposed amendments including, but not limited to modifying green building requirements for new single family and duplex structures, new multi-family projects, new non-residential buildings or additions, remodeling and additions to residential structures, remodeling of multi-family projects and remodeling to non-residential structures; and

**WHEREAS**, the ordinance was introduced at a regular meeting of the Board of Supervisors on the 24th day of September 2019, and adopted by the Board of Supervisors of the County of Marin, State of California, on the 8th day of October 2019; and

**WHEREAS**, the proposed Marin County Code Title 19 changes implement the Marin Countywide Plan (CWP) programs AIR-4.a (reduce greenhouse gas emissions resulting from energy use in buildings), AIR-4.e. (reduce County government contributions to greenhouse gas emissions), EN-1.b (adopt energy efficiency standards for new and remodeled buildings), EN-1.c (implement the single-family dwelling energy efficiency ordinance), EN-1.d (explore energy efficiency standards for existing buildings), EN-1.f (explore regional collaboration, financing, and other incentives for programs that promote sustainable energy practices), EN-1.j (reduce energy use in County facilities), EN-2.d (facilitate renewable energy technologies and design), EN-3.a (require green building practices for residential development), EN-3.b (require green building practices for non-residential development), EN-3.f (facilitate green building practices), and WR-3.a. (support water conservation efforts); and

**WHEREAS**, an inventory of 2017 greenhouse gas emissions found that the use of energy in residential and non-residential buildings within the unincorporated County generates 26% of the County's total annual greenhouse gas emissions, 80% of which comes from the combustion of natural gas in buildings; and

**WHEREAS**, the 2015 Marin County Climate Action Plan identifies reducing building energy use as one of the most effective means of meeting the adopted goal of reducing the emissions of greenhouse gases to 30% below 1990 levels by the year 2020 for the unincorporated areas; and

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

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

**WHEREAS**, the Marin County Board of Supervisors adopted a resolution on October 3, 2017 aligning local climate action policies with the State of California Climate Strategy including the county-wide adoption of electricity from 100% renewable energy sources and the increase of energy efficiency of buildings including retrofit incentives for public, residential, and commercial buildings, net-zero energy standards for new construction and funding mechanisms that incentivize energy efficiency; and

**WHEREAS**, through SB 100 the State of California has adopted a goal that renewable energy and zero-carbon resources supply 100 percent of electric retail sales to end-use customers by 2045; and

**WHEREAS**, MCE Clean Energy can currently deliver 100% renewable energy via their Deep Green program, and expects to achieve a 100% GHG free portfolio by 2022; and

**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 significant sea level increases and frequency of wildland fires and reduced freshwater resources, which will significantly increase the cost of providing local governmental services and protecting public infrastructure; and

**WHEREAS**, the Marin County's Shoreline Sea Level Rise Vulnerability Assessment concluded that with end of the century projections of five feet of sea level rise and a 100-year storm event, 18,000 acres and over 12,000 buildings could be flooded, potentially impacting over 200,000 people and \$15 billion in assessed property value; and

**WHEREAS**, the County of Marin is authorized by statute to adopt local amendments, additions or deletions to the California Building Codes Standards when determined to be reasonably necessary by the Marin County Board of Supervisors because of local climatic, geological, topographical or environmental conditions, provided the procedures and effective date of local amendments coincide with the procedures and effective date of the California Building Standards Code; and

**WHEREAS**, the Marin County Community Development Agency is the designated enforcement authority for this Title, and with the Ordinance proposed herein is expressly initiating local amendments, additions or deletions to the California Building Standards Code; and

**WHEREAS**, the Public Resources Code Section 25402.1(h)(2) states that a local enforcement agency may adopt more restrictive energy standards when they are cost-effective and approved by the California Energy Commission; and

**WHEREAS**, the Board of Supervisors hereby determines that the revised energy standards contained herein are cost effective, based upon the findings of studies conducted by Frontier Energy, Inc., Misti Brucerri & Associates LLC, TRC Energy Services, and EnergySoft.

**WHEREAS**, green building is a practice of design, construction and maintenance techniques that have been demonstrated to have a significant positive effect on energy, water and resource conservation, waste management and pollution generation and on the health and productivity of building occupants over the life of the building; and

**WHEREAS**, green building benefits are spread throughout the systems and features of the building. Green buildings can include, among other things, the use of certified sustainable wood products, extensive use of high-recycled-content products; orientation and design of a building to reduce the demand on the heating, ventilating, and air conditioning systems; the use of heating, ventilating, and air conditioning systems that provide energy efficiency and improved air quality; enhancement of indoor air quality by selection and use of construction materials that do not emit chemicals that are toxic or irritating to building occupants; the use of water conserving methods and equipment; and installation of alternative energy methods for supplemental energy production.

## **SECTION II: SUBCHAPTER 2 OF MARIN COUNTY CODE CHAPTER 19.04 REPEALED AND REPLACED**

**NOW, THEREFORE, BE IT RESOLVED**, that the Marin County Board of Supervisors ordains as follows: Subchapter 2 of Marin County Code Chapter 19.04 (Green Building Requirements) is repealed and replaced to read as follows:

Express finding: Pursuant to Health and Safety Code Sections 17958.7 and 18941.5, the Marin County Board of Supervisors hereby finds the following green building modifications to California Green Building Standards Code Chapters 3, 4 and 5, as set forth in this subchapter, are reasonably necessary because of Marin's local topographical and environmental conditions insofar as the county of Marin is bordered by sea water on three sides, presenting a direct adverse local impact to potential sea level rise as the result of construction related contributions to climate change.

### 19.04.110 - Purpose.

The purpose of this chapter is to meet or exceed all applicable mandatory measures of the 2019 California Green Building Standards Code (Title 24, Part 11) of the California Code of Regulations and to enhance the long-term public health and welfare by contributing to the overall reduction of greenhouse gas emissions and improving the environmental and economic health of the county through the efficient design, construction, operation, maintenance and deconstruction of buildings and site development by incorporating green building practices and materials. The green building provisions referenced in this chapter are designed to achieve the following objectives:

- (1) Increase energy efficiency in buildings;
- (2) Reduce consumption of fossil fuels in Marin County;
- (3) Encourage water and resource conservation;
- (4) Reduce waste generated by construction projects;
- (5) Reduce long-term building operating and maintenance costs;
- (6) Improve indoor air quality and occupant health;

- (7) Contribute to meeting state and local commitments to reduce greenhouse gas emissions; and
- (8) Satisfy all applicable mandatory measures of the 2019 California Green Building Standards Code (Title 24, Part 11) of the California Code of Regulations.

19.04.115 - California Green Building Standards Code—Local amendments.

As outlined in Section 19.04.010(9), the county has adopted the 2019 edition of the California Green Building Standards Code known as California Code of Regulations, Part 11 of Title 24 (herein referred to as CALGreen Code), with exceptions, additions, and deletions as provided in this subchapter. Requirements are outlined by project type in Table 1 of this ordinance.

The provisions of this subchapter shall constitute local amendments to the cross-referenced provisions of the 2019 CALGreen Code, and shall be deemed to replace the cross-referenced sections of said Code with the respective provisions set forth in this chapter.

Section 202 of Chapter 2 of the 2019 CALGreen Code is hereby amended as underlined.

**Electric Vehicle Charging Stations (EVCS).** One or more electric vehicle charging spaces served by electric vehicle charger(s) or other charging equipment allowing charging of electric vehicles. For purposes of determining compliance with accessibility requirements, when the permitted length of time a vehicle may occupy an electric vehicle charging station differs from the permitted duration of stay in publicly accessible parking spaces in the same parking area, electric vehicle charging stations are not considered parking spaces. When the permitted duration of stay in a space served by electric vehicle charger(s) is the same as other publicly accessible parking spaces in the same parking area, EVCS may be considered parking spaces. The EVCS need not be reserved exclusively for electric vehicle charging.

Section 301.1 of Chapter 3 of the 2019 CALGreen Code is hereby amended as underlined and struck through:

**301.1 Scope.** Buildings shall be designed to comply with applicable requirements of Marin County Green Building Requirements beginning at Chapter 19.04.110, Marin County Code, and shall also include the green building measures specified as mandatory in the application checklists contained in this code.

Section 301.1.1 of Chapter 3 of the 2019 CALGreen Code is hereby amended as underlined and struck through:

**301.1.1 Additions and alterations.** The mandatory provisions of Chapter 4 shall be applied to additions and alterations of existing residential buildings ~~where the addition or alteration increases the building's conditioned area, volume, or size,~~ in accordance with applicable requirements of Marin County Green Building Requirements beginning at Chapter 19.04.110, Marin County Code. The requirements shall apply only to and/or within the specific area of the addition or alteration.

Section 301.3 of Chapter 3 of the 2019 CALGreen Code is hereby amended as underlined and struck through:

**301.3 Nonresidential additions and alterations.** The provisions of individual sections of Chapter 5 apply to newly constructed buildings, and building additions and alterations of 1,000 square feet or greater, and/or building alterations with a permit valuation of \$200,000 or above (for occupancies within the authority of California Building standards Commission). Code sections relative to additions and alterations shall only apply to the portions of the building being added or altered within the scope of the permitted work.

Section 4.106.4.2 of Chapter 4 of the 2019 CALGreen Code is hereby amended as underlined and struck through:

**Section 4.106.4.2 New multifamily dwellings.** If residential parking is available, ~~ten (10) percent of the total number of parking spaces on a building site~~ the number of spaces designated for the project type as outlined in Table 1 of Chapter 19.04.140, Marin County Code, provided for all types of parking facilities, shall be electric vehicle charging spaces (EV spaces) capable of supporting future EVSE. Calculations for the required number of EV spaces shall be rounded up to the nearest whole number.

Section 4.106.4.3.1 of Chapter 4 of the 2019 CALGreen Code is hereby amended as underlined and struck through:

**Section 4.106.4.3.1 Number of required EV Spaces.** The number of required EV spaces shall be based on the number of spaces designated for the project type as outlined in Table 1 of Chapter 19.04.140, Marin County Code ~~total number of parking spaces provided for all types of parking facilities in accordance with Table 4.106.4.3.1.~~ Calculations for the required number of EV spaces shall be rounded up to the nearest whole number.

Section 5.106.5.3 of Chapter 5 of the 2019 CALGreen Code is hereby amended as underlined:

**Section 5.106.5.3 Electric Vehicle Charging. [N]** Construction shall comply with Section 5.106.5.3.1 or Section 5.106.5.3.2, using the space requirements designated for the project type as outlined in Table 1 of Chapter 19.04.140, Marin County Code, to facilitate future installation of electric vehicle supply equipment (EVSE). When EVSE(s) is/are installed, it shall be in accordance with the *California Building Code*, the *California Electrical Code* and as follows:

Section 5.106.5.3.3 of Chapter 5 of the 2019 CALGreen Code is hereby amended as underlined and struck through:

**Section 5.106.5.3.3 EV charging space calculation. [N]** ~~Table 5.106.5.3.3~~ Table 1 of Chapter 19.04.140, Marin County Code shall be used to determine if single or multiple charging space requirements apply for the future installation of EVSE.

Section A4.106.8.2 of Appendix A4 of the 2019 CALGreen Code is hereby amended as underlined and struck through:

**Section A4.106.8.2 New multifamily dwellings.**

~~Tier 1. Fifteen (15) percent of the total number of parking spaces on a building site~~ The number of spaces designated for the project type as outlined in Table 1 of Chapter 19.04.140, Marin County Code, provided for all types of parking facilities, but in no case less than one, shall be electric vehicle charging spaces (EV spaces) capable of supporting future EVSE. Calculations for the required number of EV spaces shall be rounded up to the nearest whole number.

Section A4.106.8.3 of Appendix A4 of the 2019 CALGreen Code is hereby amended as underlined and struck through:

**Section A4.106.8.3 New hotels and motels.**

**Tier 1. Number of required EV spaces.** The number of required EV spaces shall be based on the number of spaces designated for the project type as outlined in Table 1 of Chapter 19.04.140, Marin County Code ~~parking spaces provided for all types of parking facilities in accordance with Table A4.106.8.3.1~~ provided for all types of parking facilities, but in no case less than one, shall be electric vehicle charging spaces (EV spaces) capable of supporting future EVSE. Calculations for the required number of EV spaces shall be rounded up to the nearest whole number.

Section A5.106.5.3 of Appendix A5 of the 2019 CALGreen Code is hereby amended as underlined:

**Section A5.106.5.3 Electric vehicle (EV) charging.** Construction shall comply with Section A5.106.5.3.1 or Section A5.106.5.3.2, using the space requirements designated for the project type as outlined in Table 1 of Chapter 19.04.140, Marin County Code, to facilitate future installation of electric vehicle supply equipment (EVSE). When EVSE(s) is/are installed, it shall be in accordance with the *California Building Code*, the *California Electrical Code* and as follows:

**A5.106.5.3.1 Tier 1.** ~~Table A5.106.5.3.1~~ Table 1 of Chapter 19.04.140, Marin County Code shall be used to determine the number of multiple charging spaces required for future installation of EVSE. Refer to Section 5.106.5.3.2 for design space requirements.

19.04.120 - Applicability.

The provisions of this chapter shall apply to all construction or development projects defined below as a "covered project."

19.04.130 - Definitions.

For the purposes of interpreting this chapter and the associated standards for compliance, the following terms are defined as follows. When the definitions below differ from those contained elsewhere in this title, the provisions of this chapter shall apply. These definitions are additional to those outlined in Chapter 2 of the CALGreen Code.

- (1) "2019 State Energy Code" refers to the requirements outlined in the 2019 edition of the California Energy Code known as California Code of Regulations, Part 6 of Title 24.
- (2) "All-electric" refers to a building where electricity is the only permanent source of energy for water -heating, space-heating, space cooling, cooking and clothes-drying and there is no gas meter connection.
- (3) "CALGreen" refers to the California Green Building Standards Code, as included in Title 24, Part 11 of the California Code of Regulations
- (4) "CALGreen Mandatory" means those measures that are required for all covered projects. Residential mandatory measures are contained in CALGreen Chapter 4. Nonresidential mandatory measures are contained in CALGreen Chapter 5.
- (5) "CALGreen Tier 1" refers to required prerequisite and elective measures in addition to the CALGreen mandatory measures, as outlined in CALGreen Appendix A4.601.4 for residential projects and CALGreen Appendix A5.601.2 for nonresidential projects. Where Tier 1 is required for covered projects that are not new construction, energy efficiency requirements beyond those outlined in CALGreen Mandatory are not required.
- (6) "Covered project" means a development project for which one or more building permits are required for new construction, additions, and/or remodels as set forth by the standards for compliance outlined in Section 19.04.140 and in Table 1.
- (7) "Efficiency EDR Compliance Margin" is the difference in the EDR of Standard Efficiency and the EDR of Proposed Efficiency for a building.
- (8) "EV Capable" refers to a parking space with conduit installed and allocated 208/240V 40-amp panel capacity for future EV charging stations.
- (9) "EV Ready" refers to the installation of a full circuit with minimum of 40-Amp 208 or 240 Volt capacity per EV Space, including listed raceway, sufficient electrical panel service capacity, overcurrent protection devices, wire, and suitable listed termination point such as a receptacle. The termination point shall be in close proximity to the proposed EV charger location.
- (10) "Limited mixed-fuel" is a building where natural gas and/or propane are only used for cooking and fireplaces.
- (11) "Mixed-fuel " is a building where both natural gas and/or propane and electricity are used.
- (12) "Modified parking lot" shall be those for which paving material and curbing is removed.
- (13) "Qualified green building rater" means an individual who has been trained and certified as a CALGreen Inspector, LEED AP, GreenPoint rater, PHIUS Consultant, or has similar qualifications and certifications if acceptable to the chief building official.
- (14) "Total EDR Compliance Margin" is the difference in the EDR of the Total Standard Design and the EDR of the Total Proposed building. This incorporates the Efficiency EDR compliance margin as well as the EDR points associated with photovoltaics and flexibility such as battery storage.

19.04.140 - Standards for compliance.

The Marin County Green Building Requirements define compliance thresholds for different projects that are covered by this ordinance. These standards are outlined below in Table 1.

Table 1: Requirements by Project Type and Size			
Project Type and Size	Green Building Requirements	Energy Efficiency Requirements	Electric Vehicle Requirements
Single and Two-Family New Construction	CALGreen Tier 1	<p>“All-electric”, meeting the requirements outlined for the project in the 2019 Building Energy Efficiency Standards</p> <p>OR</p> <p>“Limited mixed-fuel”, prewired for future induction cooking, with an Efficiency EDR Compliance Margin of 3, demonstrated on Title 24 energy reports</p> <p>OR</p> <p>“Mixed-fuel”, prewired for future induction cooking, with an Efficiency EDR Compliance Margin of 3 and a Total EDR Compliance Margin of 10, demonstrated on Title 24 energy reports.</p> <p>See Section 19.04.130 for applicable definition of “All-electric”, “Limited mixed-fuel”, and “Mixed-fuel”.</p>	Comply with CALGreen Measure A4.106.8.1
Single and Two-Family Additions and Alterations less than 1,200 square feet	CALGreen Mandatory	Meet the standards outlined for the project in the 2019 Building Energy Efficiency Standards	If the project is upgrading the main electrical service panel, comply with CALGreen Measure A4.106.8.1
Single and Two-Family Additions and Alterations 1,200 square feet or greater	CALGreen Tier 1 less section A4.2 (Energy Efficiency)	Meet the standards outlined for the project in the 2019 Building Energy Efficiency Standards	



<p>Multifamily New Construction 3 stories or less</p>	<p>CALGreen Tier 1</p>	<p>“All-electric”, meeting the requirements outlined for the project in the 2019 Building Energy Efficiency Standards  <u>OR</u>  “Limited mixed-fuel”, prewired for future induction cooking, with an Efficiency EDR Compliance Margin of 0.5, demonstrated on Title 24 energy reports  <u>OR</u>  “Mixed-fuel”, prewired for future induction cooking, with an Efficiency EDR Compliance Margin of 0.5 and a Total EDR Compliance Margin of 10, demonstrated on Title 24 energy reports.</p> <p>See Section 19.04.130 for applicable definition of “All-electric”, “Limited mixed-fuel”, and “Mixed-fuel”.</p>	<p>Build one electric vehicle charging space<sup>1</sup> per dwelling unit, as defined in Chapter 22.130.030 of Marin County Code, complying with technical requirements referenced in A4.106.8.2.1</p>
<p>Multifamily New Construction 4 stories or greater</p>	<p>CALGreen Tier 1</p>	<p>“All-electric”, meeting the requirements outlined for the project in the 2019 Building Energy Efficiency Standards  <u>OR</u>  “Limited mixed-fuel”, prewired for future induction cooking, with a compliance margin of 5%, demonstrated on Title 24 energy reports  <u>OR</u>  “Mixed-fuel”, prewired for future induction cooking, with a compliance margin of 10%, demonstrated on Title 24 energy reports.</p> <p>See Section 19.04.130 for applicable definition of “All-electric”, “Limited mixed-fuel”, and “Mixed-fuel”.</p>	<p>Build one electric vehicle charging space<sup>1</sup> per dwelling unit, as defined in Chapter 22.130.030 of Marin County Code, complying with technical requirements referenced in A4.106.8.2.1</p>

Multifamily Additions and Alterations less than 1,200 square feet	CALGreen Mandatory	Meet the standards outlined for the project in the 2019 Building Energy Efficiency Standards	If the service panel is modified, add designated electrical capacity for 20% of onsite parking spaces to be EV Capable <sup>1</sup> .
Multifamily Additions and Alterations 1,200 square feet or greater	CALGreen Tier 1 less section A4.2 (Energy Efficiency)	Meet the standards outlined for the project in the 2019 Building Energy Efficiency Standards	When parking lot surface is modified (paving material and curbing removed), add conduit to all exposed parking spaces. Where existing electrical service will not be upgraded in the existing project scope, designate capacity for parking spaces to the maximum extent that does not require an upgrade to existing electrical service.
Nonresidential New Construction	CALGreen Tier 1	<p>“All-electric”, meeting the requirements outlined for the project in the 2019 Building Energy Efficiency Standards</p> <p><u>OR</u></p> <p>“Limited mixed-fuel”, prewired for future induction cooking, with an Efficiency EDR Compliance Margin of 5%, demonstrated on Title 24 energy reports</p> <p><u>OR</u></p> <p>“Mixed-fuel”, prewired for future induction cooking, with a compliance margin of 10%, demonstrated on Title 24 energy reports.</p> <p>See Section 19.04.130 for applicable definition of “All-electric”, “Limited mixed-fuel”, and “Mixed-fuel”.</p>	<p>Build 10% of spaces to be EV Ready and build the remaining spaces to be EV Capable<sup>1</sup></p> <p><u>OR</u></p> <p>Build 20% of spaces to be EV Ready<sup>1</sup> and install EV Chargers in 5% of spaces, but in no case less than two EV Chargers.</p>

Nonresidential Additions and Alterations less than 3,000 square feet	CALGreen Tier 1, Less Section A4.2 (energy efficiency)	Meet the standards outlined for the project in the 2019 Building Energy Efficiency Standards	If the service panel is modified, add designated electrical capacity for 20% of onsite parking spaces to be EV Capable <sup>1</sup> .
Nonresidential Additions and Alterations 3,000 square feet or greater	CALGreen Tier 1, Less Section A4.2 (energy efficiency)	Meet the standards outlined for the project in the 2019 Building Energy Efficiency Standards	When parking lot surface is modified (paving material and curbing removed), add conduit to all exposed parking spaces. Where existing electrical service will not be upgraded in the existing project scope, designate capacity for parking spaces to the maximum extent that does not require an upgrade to existing electrical service.
<sup>1</sup> Electrical service capacity shall be able to deliver a minimum 40 amperes at 208 or 240 volts multiplied by 20% of the total number of EV Spaces. The panelboard(s) shall have sufficient space to install a minimum of one 40-ampere dedicated branch circuit and overcurrent protective device per EV Space up to a minimum of 20% of the total number of EV Spaces. The circuits and overcurrent protective devices shall remain reserved exclusively for EV charging. An EV Load management system may be necessary in order to provide EV charging at more than 20% of EV Spaces.			

The following conditions also apply:

- (a) Cumulative new construction or remodels over any one-year period shall be considered as a single covered project, and subject to the highest compliance threshold based on the cumulative project size or valuation.
- (b) For the purposes of this ordinance, the definition of a demolition is the same as the definition as outlined in Section 22.130.030 in the county of Marin Article VIII - Development Code Definition. This states that "for buildings, removal or substantial modification of more than seventy-five percent of the linear sum of a building's exterior walls for each story shall be considered demolition of the building." Any existing building that is demolished to this level will be required to comply with the green building standards outlined in this chapter for new construction.
- (c) Mixed use (residential and commercial) projects must comply either with the applicable covered project requirements for the respective residential and commercial portions of the project, or may propose to utilize a mixed use rating system, subject to approval by the chief building official.
- (d) All buildings submitted for permit must meet all applicable requirements of the 2019 California Energy Code (Title 24, Part 6) California Code of Regulations and referenced standards, or subsequently adopted state energy standards, as well as all applicable requirements of the 2019 Green Building Energy Standards, California Code of Regulations, Title 24, Part 11, or subsequently adopted state green building standards.

#### 19.04.150 - Incentives for compliance.

In addition to the required standards for compliance, the board of supervisors may establish by resolution, financial or application processing incentives and/or award or recognition programs to encourage higher levels of green building compliance for a project.

#### 19.04.160 - Administrative procedures.

The procedures for compliance with the provisions of this chapter shall include, but not be limited to the following:

- (a) *Project design.* Applicants for a covered project are strongly encouraged to involve a qualified green building rater in the initial design phases of the project in advance of submittal of an application to determine applicable green building compliance thresholds and the most cost effective and appropriate means of achieving compliance.
- (b) *Planning applications.* If a discretionary planning application is required for a covered project, applicants should be prepared to identify expected green building measures to be included in the project to achieve the compliance thresholds. Applicants should identify any anticipated difficulties in achieving compliance and any exemptions from the requirements of this chapter that may be requested.
- (c) *Building plan check review.* Upon submittal of an application for a building permit, building plans for any covered project shall include a green building program description and completed checklist. The checklist shall be incorporated onto a separate full-sized plan sheet included with the building plans. Evidence that the project, as indicated by the project plans and green building program description, will achieve the standards for compliance outlined in Section 19.04.140, shall be provided prior to issuance of a building permit.

- (d) *Changes during construction.* During the construction process, alternate green building measures may be substituted, provided that documentation of the proposed change and the project's continued ability to achieve the standards for compliance to the chief building official shall be provided.
- (e) *Final building inspection.* Prior to final building inspection and occupancy for any covered project, evidence that project construction has achieved the required compliance set forth in the standards for compliance outlined in Section 19.04.140 shall be provided. The chief building official shall review the documentation submitted by the applicant, and determine whether the project has achieved the compliance threshold as set forth in the standards for compliance outlined in Section 19.04.140. If the chief building official determines that the applicant has met these requirements, the final building inspection may proceed.
- (f) *Conflict with other laws.* The provisions of this chapter are intended to be in addition to and not in conflict with other laws, regulations and ordinances relating to building construction and site development. If any provision of this chapter conflicts with any duly adopted and valid statutes or regulations of the federal government or the state of California, the federal or state statutes or regulations shall take precedence.

#### 19.04.170 - Exemptions.

- (a) The provisions of this chapter shall not apply to:
  - (1) Buildings which are temporary (such as construction trailers).
  - (2) Building area which is not or is not intended to be conditioned space.
  - (3) Any requirements of this chapter which would impair the historic integrity of any building listed on a local, state or federal register of historic structures, as determined by the chief building official and as regulated by the California Historic Building Code (Title 24, Part 8). In making such a determination, the chief building official may require the submittal of an evaluation by an architectural historian or similar expert.
- (b) As outlined in Title 24, Part 11 of the California Code of regulations, the electric vehicle charging provisions of this chapter, applicants may be exempted from the electric vehicle charging requirements 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 commercial power supply.
  - (2) Where there is evidence substantiating that meeting the requirements will alter the local utility infrastructure design requirements on the utility side of the meter so as to increase the utility side cost to the homeowner or the developer by more than four hundred dollars per dwelling unit.
- (c) *Hardship or infeasibility exemption.* If an applicant for a covered project believes that circumstances exist that make it a hardship or infeasible to meet the requirements of this chapter, the applicant may request an exemption as set forth below. In applying for an exemption, the burden is on the applicant to show hardship or infeasibility.
  - (1) *Application.* The applicant shall identify in writing the specific requirements of the standards for compliance that the project is unable to achieve and the circumstances that make it a hardship or infeasible for the project to comply with this chapter. The applicant may not petition for relief from any requirement of the 2019 California Energy Code (Title 24, Part 6) and referenced standards, or the 2019 California Green Building

Standards (Title 24, Part 11) of the California Building Standards Code. Circumstances that constitute hardship or infeasibility shall include, but are not limited to the following:

- a. There is a conflict between the provisions of the applicable green building rating system and the California Building Standards Code, other state code provisions, other requirements of this title or conditions imposed on the project through a previously approved planning application;
  - b. There is a lack of commercially available green building materials and technologies to comply with the green building rating system;
  - c. That the cost of achieving compliance is disproportionate to the overall cost of the project;
  - d. That physical conditions of the project site make it impractical to incorporate necessary green building measures or achieve the standards for compliance;
  - e. That compliance with certain requirements would impair the historic integrity of buildings listed on a local, state or federal list or register of historic structures as regulated by the California Historic Building Code (Title 24, Part 8).
- (2) *Granting of exemption.* If the chief building official determines that it is a hardship or infeasible for the applicant to fully meet the requirements of this chapter and that granting the requested exemption will not cause the building to fail to comply with the 2019 California Energy Code (Title 24, Part 6) and referenced standards, or the 2019 California Green Building Standards (Title 24, Part 11) of the California Building Standards Code, the chief building official shall determine the maximum feasible threshold of compliance reasonably achievable for the project. In making this determination, the chief building official shall consider whether alternate, practical means of achieving the objectives of this chapter can be satisfied, such as reducing comparable energy use at an off-site location within the county. If an exemption is granted, the applicant shall be required to comply with this chapter in all other respects and shall be required to achieve the threshold of compliance determined to be achievable by the chief building official.
- (3) *Denial of exception.* If the chief building official determines that it is reasonably possible for the applicant to fully meet the requirements of this chapter, the request shall be denied, and the applicant shall be notified of the decision in writing. The project and compliance documentation shall be modified to comply with the standards for compliance.
- (4) *Appeal.* Any aggrieved applicant or person may appeal the determination of the chief building official regarding the granting or denial of an exemption or compliance with any other provision of this chapter. An appeal of a determination of the chief building official shall be filed in writing and processed in accordance with the provisions of Section 19.04.028 of this code.

### **SECTION III: EFFECTIVE DATE AND PUBLICATION**

Pursuant to Government Code §25123, this Ordinance shall become effective on January 1, 2020, provided that the additional energy efficiency requirements of this Ordinance cannot be enforced by the County until it has further been approved by the California Energy Commission (Cal. Pub. Res. Code §25402.1(h)(2)).

In accordance with Government Code §25124(b)(1), this Ordinance shall be published once before the expiration date of fifteen (15) days after its passage, with the names of the Supervisors voting for and against the same in the *Marin Independent Journal*, a newspaper of general circulation published in the County of Marin. A certified copy of the full text of this Ordinance along with the names of those Board of Supervisors members voting for and against the ordinance shall also be posted in the office of the Marin County Board of Supervisors. This ordinance is enacted pursuant to and in compliance with Cal. Health and Safety Code §17958 §17958.5, §17958.7 and §18941.5; and Cal. Public Resources Code Section 25402.1(h)(2).

Prior to the effective date, a copy of this Ordinance shall be filed with the California Building Standards Commission complete with local findings for each local amendment to the California Building Standards Code, as required by Cal. Health and Safety § 17959.

#### **SECTION IV: VALIDITY**

If any section, subsection, sentence, clause or phrase of the provisions depicted in this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining provisions adopted under this Ordinance. The Board of Supervisors of Marin County hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases thereof shall be declared invalid.

#### **SECTION V: CALIFORNIA ENVIRONMENTAL QUALITY ACT**

The Board of Supervisors of Marin County finds that adoption of this ordinance is exempt from the California Environmental Quality Act ("CEQA") under California Code of Regulations, Title 14, §15061(b)(3).

#### **SECTION VI: VOTE**

**PASSED AND ADOPTED** at a regular meeting of the Board of Supervisors of the County of Marin held on this 8<sup>th</sup> day of October by the following vote:

AYES: SUPERVISORS Judy Arnold, Dennis Rodoni, Damon Connolly, Katie Rice,  
Kathrin Sears

NOES: NONE

ABSENT: NONE

  
\_\_\_\_\_  
PRESIDENT, BOARD OF SUPERVISORS

ATTEST:

  
\_\_\_\_\_  
CLERK