

**MARIN COUNTY BOARD OF SUPERVISORS**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE ADOPTING AMENDMENTS TO PORTIONS OF  
MARIN COUNTY CODE TITLE 19 (BUILDING CODE)**

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**The BOARD OF SUPERVISORS OF THE COUNTY OF MARIN 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 27th day of February 2018, and adopted by the Board of Supervisors of the County of Marin, State of California, on the 13th day of March 2018; 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**, the 2017 Marin County Re-Inventory of Greenhouse Gas Emissions determined that the operation of residential and non-residential buildings within the unincorporated County generates 30% of the county's total annual greenhouse gas emissions; 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**, 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 Davis Energy Group, Inc., Enercomp, Inc., Misti Bruceri & Associates LLC, and TRC Energy Services.

**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; and

**WHEREAS**, in recent years, green building design, construction and operational techniques have become increasingly widespread. Many homeowners, businesses, and building professionals have voluntarily sought to incorporate green building techniques into their projects. Numerous local and national systems have been developed to serve as guides and rating systems for green building practices. Construction of buildings in accordance with Build It Green's GreenPoint Rated and the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED®) rating systems result in average energy savings of about 20% compared with buildings constructed in accordance with current minimum standards of the state building code. The Passive House Institute US (PHIUS) has developed standards for buildings that consume 86% less energy for heating and 46% less energy for cooling when compared to nationally code-compliant buildings.

## **SECTION II: SUBCHAPTER 2 OF MARIN COUNTY CODE CHAPTER 19.04 REPEALED AND REPLACED**

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIN ORDAINS AS FOLLOWS: Subchapter 2 of Marin County Code Chapter 19.04 (Green Building Requirements) is repealed and replaced to read as follows:

### **19.04.110 - Purpose.**

The purpose of this chapter is to meet or exceed all applicable mandatory measures of the 2016 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 2016 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 19.04.010.9, the County has adopted the 2016 edition of the California Green Building Standards Code known as California Code of Regulations, Part 11 of Title 24, with exceptions, additions, and deletions as provided in this subchapter. Requirements are outlined by project type in Tables 1 and 2 of this ordinance.

The provisions of this subchapter shall constitute local amendments to the cross-referenced provisions of the California Green Building Standards Code, 2016 Edition, and shall be deemed to replace the cross-referenced sections of said Code with the respective provisions set forth in this chapter.

Section 301.1 of Chapter 3 of the 2016 California Green Building Standards Code (Title 24, Part 11), California Code of Regulations is hereby amended by replacing the first sentence with the following:

*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 2016 California Green Building Standards Code (Title 24, Part 11), California Code of Regulations is hereby amended by replacing the first sentence with the following:

*301.1.1 Additions and alterations.* The mandatory provisions of Chapter 4 shall be applied to additions and alterations of existing residential buildings in accordance with applicable requirements of Marin County Green Building Requirements beginning at [Chapter 19.04.110](#), Marin County Code. Section A4.106.8.2 of Appendix A4 of the 2016 California Green Building Standards Code (Title 24, Part 11), California Code of Regulations is hereby amended by replacing the percentage of parking provided for EV spaces with the number that is outlined for the project type in Table 2 of this chapter.

Section A5.106.5.3 of Appendix A5 of the 2016 California Green Building Standards Code (Title 24, Part 11), California Code of Regulations is hereby amended by referring to Table 2 of this chapter rather than Sections A5.106.5.3 and A5.106.5.3.1 to determine the number of EV spaces required.

#### **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 2016 edition of the California Green Building Standards Code known as California Code of Regulations, Part 11 of Title 24,

- (1) "2016 State Energy Code" refers to the requirements outlined in the 2016 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) "EVSE" means Electric Vehicle Supply Equipment, which defines the conductors, including the ungrounded, grounded, and equipment grounding conductors and the electric vehicle connectors, attachment plugs, and all other fittings, devices, power outlets, or apparatus installed specifically for the purpose of transferring energy between the premises wiring and the electric vehicle.
- (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 an EV-ready parking space that has allocated 208/240V 40-amp panel capacity, conduit, wiring, receptacle, and overprotection devices, with an endpoint near to the parking space.
- (10) "EV Space" refers to a parking space intended for future installation of EVSE. The EV space does not need to be reserved for electric vehicle charging prior to the installation of EVSE.
- (11) "Green building checklist" means a checklist or rating sheet used for calculating a green building rating. Depending on the compliance pathway chosen by the applicant, this can include a checklist for CALGreen, Green Point Rated, LEED, and Passive House.

- (12) "Green building rating system" means a standardized rating system providing specific criteria to determine the level of compliance of building projects as set forth by the standards for compliance outlined in [Section 19.04.140](#). This ordinance is centered around the state's CALGreen rating system and associated checklists, but allows for the use of equivalent alternatives, including GreenPoint rated, LEED, and Passive House.
- (13) "GreenPoint rated" means a residential building certified as complying with the green building rating systems developed by the Build It Green organization.
- (14) "LEED" means the "Leadership in Energy and Environmental Design" green building rating system developed by the U.S. Green Building Council.
- (15) "Mixed-fuel home" is a home where both natural gas and/or propane and electricity are used.
- (16) "Modified parking lot" shall be those for which paving material and curbing is removed,
- (17) "Passive house" means a home built to Passive House Institute US (PHIUS) certification standards.
- (18) "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.

#### **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.

<b>Table 1: Requirements by Project Type and Size</b>			
<b>Project Type and Size</b>	<b>Green Building Requirements</b>	<b>Energy Efficiency Requirements</b>	<b>Electric Vehicle Requirements</b>
Single and Two-Family New Construction, less than 4,000 square feet	CALGreen Tier 1 <b>OR</b> Green Point Rated Silver <b>OR</b> LEED for Homes Silver	If a photovoltaic system is not installed, demonstrate that the energy use of the proposed home is 15% more efficient than the 2016 State Energy Code. <b>OR</b> If a photovoltaic system is installed, demonstrate that the energy use of the proposed home is 20% more efficient than the 2016 State Energy Code. <b>OR</b> Demonstrate that the proposed home will be all electric	See Table 2
Single and Two-Family New Construction, 4,000 square feet or greater		Demonstrate that the proposed mixed-fuel home: <ul style="list-style-type: none"> <li>• is 35% more efficient than the 2016 State Energy Code</li> <li>• will generate as much electricity on-site as it is expected to use in a year, estimated to be equivalent to an energy design rating (EDR) of 20 or less</li> </ul> <b>OR</b> Demonstrate that the proposed all-electric home: <ul style="list-style-type: none"> <li>• is 20% more efficient than the 2016 State Energy Code</li> <li>• includes at least 2.5 kW of solar.</li> </ul> <b>OR</b> Develop the proposed home to Passive House Institute US (PHIUS) Standards.	
Single and Two-Family Additions and Alterations less than 750 square feet	Submit CALGreen Mandatory Checklist	Meet the standards outlined for the project in the 2016 Building Energy Efficiency Standards	See Table 2

<b>Table 1: Requirements by Project Type and Size</b>			
<b>Project Type and Size</b>	<b>Green Building Requirements</b>	<b>Energy Efficiency Requirements</b>	<b>Electric Vehicle Requirements</b>
Single and Two-Family Additions and Alterations 750 square feet or greater	CALGreen Tier 1 less section A4.2 (Energy Efficiency) <b>OR</b> Green Point Rated Certified Level <b>OR</b> LEED for Homes Certified Level		
Multifamily New Construction 3 stories or less	CALGreen Tier 1 <b>OR</b> Green Point Rated Silver <b>OR</b> LEED for Homes and Multifamily Silver	If a photovoltaic system is not installed, demonstrate that the energy use of the proposed home is 10% more efficient than the 2016 State Energy Code. <b>OR</b> If a photovoltaic system is installed, demonstrate that the energy use of the proposed home is 15% more efficient than the 2016 State Energy Code. <b>OR</b> Demonstrate that the proposed project will be all electric	See Table 2
Multifamily New Construction 4 stories or greater		Demonstrate that the energy use of the proposed building is 10% more efficient than the 2016 State Energy Code. <b>OR</b> Develop all units to be all-electric	
Multifamily Additions and Alterations less than 750 square feet	Submit CALGreen Mandatory Checklist	Meet the standards outlined for the project in the 2016 Building Energy Efficiency Standards	See Table 2



<b>Table 1: Requirements by Project Type and Size</b>			
<b>Project Type and Size</b>	<b>Green Building Requirements</b>	<b>Energy Efficiency Requirements</b>	<b>Electric Vehicle Requirements</b>
Multifamily Additions and Alterations 750 square feet or greater	CALGreen Tier 1 less section A4.2 (Energy Efficiency) <b>OR</b> Green Point Rated Certified Level <b>OR</b> LEED for Homes Certified Level		
Nonresidential New Construction	CALGreen Tier 1 <b>OR</b> LEED Silver	Demonstrate that the energy use of the proposed building is 10% more efficient than the 2016 State Energy Code. <b>OR</b> Develop proposed building to be all-electric	See Table 2
Nonresidential Additions and Alterations	CALGreen Tier 1, Less Section A4.2 (energy efficiency) <b>OR</b> LEED Silver	Meet the standards outlined for the project in the 2016 Building Energy Efficiency Standards	See Table 2

<b>Table 2: Electric Vehicle Requirements by Project Type</b>				
<b>Project Type</b>	<b>Option 1</b>	<b>Option 2</b>	<b>Option 3</b>	<b>Option 4</b>
Single Family New Construction	Comply with CALGreen Measure A4.106.8.1	Comply with CALGreen Measure A4.106.8.1	Comply with CALGreen Measure A4.106.8.1	Comply with CALGreen Measure A4.106.8.1
Single Family Additions and Alterations	If the project is modifying the main electrical service panel, comply with CALGreen Measure A4.106.8.1	If the project is modifying the main electrical service panel, comply with CALGreen Measure A4.106.8.1	If the project is modifying the main electrical service panel, comply with CALGreen Measure A4.106.8.1	If the project is modifying the main electrical service panel, comply with CALGreen Measure A4.106.8.1
Multifamily New Construction	If building or modifying 2-10 onsite parking spaces, build 2 parking spaces to be EV Ready <b>OR</b> If building or modifying greater than 10 onsite parking spaces, build 10% of spaces to be EV Ready and build an additional 10% of spaces to be EV Capable.	For projects with 2-10 onsite parking spaces, build 2 parking spaces to be EV Ready and build the remaining spaces to be EV Capable. <sup>1</sup> <b>OR</b> For projects with greater than 10 onsite parking spaces, build 10% of spaces to be EV Ready and build the remaining spaces to be EV Capable. <sup>1</sup>	For projects with 2-10 onsite parking spaces, build 2 parking spaces to be EV Ready and build the remaining spaces to be EV Capable. <sup>1</sup> <b>OR</b> For projects with greater than 10 onsite parking spaces, build 10% of spaces to be EV Ready and build the remaining spaces to be EV Capable. <sup>1</sup>	Achieve CALGreen Tier 1 for new multifamily EV charging.
Multifamily Additions and Alterations	If building or modifying 2-10 onsite parking spaces, build 2 parking spaces to be EV Ready <b>OR</b> If building or modifying greater than 10 onsite parking spaces, build 10% of spaces to be EV Ready and build an additional 10% of spaces to be EV Capable.	If building or modifying 2-10 onsite parking spaces, build 2 parking spaces to be EV Ready and build the remaining spaces to be EV Capable. <sup>1</sup> <b>OR</b> If building or modifying greater than 10 onsite parking spaces, build 10% of spaces to be EV Ready and build the remaining spaces to be EV Capable. <sup>1</sup>	If the service panel is modified, add capacity for 20% of parking spaces.  If more than 25% of the parking lot surface is modified, add conduit to all parking spaces. Where existing electrical service will not be upgraded in the existing project scope, designate capacity to the maximum extent that does not require an upgrade to existing electrical service.	If both the electrical service panel and parking lot are being modified, achieve CALGreen Tier 1 for new multifamily EV charging.

<b>Table 2: Electric Vehicle Requirements by Project Type</b>				
<b>Project Type</b>	<b>Option 1</b>	<b>Option 2</b>	<b>Option 3</b>	<b>Option 4</b>
Commercial New Construction	<p>If building or modifying 2-10 onsite parking spaces, build 2 parking spaces to be EV Ready</p> <p><b>OR</b></p> <p>If building or modifying greater than 10 onsite parking spaces, build 10% of spaces to be EV Ready and build an additional 10% of spaces to be EV Capable.</p>	<p>For 2-10 onsite parking spaces, build 2 parking spaces to be EV Ready and build the remaining spaces to be EV Capable.<sup>1</sup></p> <p><b>OR</b></p> <p>For greater than 10 onsite parking spaces, build 10% of spaces to be EV Ready and build the remaining spaces to be EV Capable.<sup>1</sup></p>	<p>For 2-10 onsite parking spaces, build 2 parking spaces to be EV Ready and build the remaining spaces to be EV Capable.<sup>1</sup></p> <p><b>OR</b></p> <p>For greater than 10 onsite parking spaces, build 10% of spaces to be EV Ready and build the remaining spaces to be EV Capable.<sup>1</sup></p>	Achieve CALGreen Tier 1 for new commercial EV charging
Commercial Additions and Alterations	<p>If building or modifying 2-10 onsite parking spaces, build 2 parking spaces to be EV Ready</p> <p><b>OR</b></p> <p>If building or modifying greater than 10 onsite parking spaces, build 10% of spaces to be EV Ready and build an additional 10% of spaces to be EV Capable.</p>	<p>If building or modifying 2-10 onsite parking spaces, build 2 parking spaces to be EV Ready and build the remaining spaces to be EV Capable.<sup>1</sup></p> <p><b>OR</b></p> <p>If building or modifying greater than 10 onsite parking spaces, build 10% of spaces to be EV Ready and build the remaining spaces to be EV Capable.<sup>1</sup></p>	<p>If the main electrical service panel is modified, add capacity for 20% of parking spaces.</p> <p>If more than 25% of the parking lot surface is modified, add circuit to all parking spaces. Where existing electrical service will not be upgraded in the existing project scope, designate capacity to the maximum extent that does not require an upgrade to existing electrical service.</p>	If both the electrical service panel and parking lot are being modified, achieve CALGreen Tier 1 for new commercial EV charging.
<p><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.</p>				

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 Chapter 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 75 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 2016 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 2016 Green Building Energy Standards, California Code of Regulations, Title 24, Part 11, or subsequently adopted state green building standards.
- (e) The applicable green building rating system shall be that which is most recently adopted by the green building rating system’s associated organization. The green building rating system in effect at the time of building permit submittal shall be that which is applicable to the development project throughout the project construction.

#### **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:
  - a. Where there is no commercial power supply
  - b. 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 \$400 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 2016 California Energy Code (Title 24, Part 6) and referenced standards, or the 2016 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 2016 California Energy Code (Title 24, Part 6) and referenced standards, or the 2016 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**

Pursuant to Government Code §25123, this Ordinance shall become effective 30 days from the date of final passage, 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 (30 days from final passage), 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**

Notice of this Ordinance was published pursuant to Government Code §25124(b)(1), and a certified copy of the full text of this Ordinance was posted in the office of the Clerk of the Marin County Board of Supervisors at least five (5) days prior to the Board of Supervisors meeting at which it was adopted.

**PASSED AND ADOPTED** at a regular meeting of the Board of Supervisors of the County of Marin held on this 13<sup>th</sup> day of March by the following vote:

AYES:

NOES:

ABSENT:

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

ATTEST:

\_\_\_\_\_  
CLERK