

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTEREY AMENDING CHAPTER 18.12 OF THE MONTEREY COUNTY CODE TO ADOPT THE 2010 CALIFORNIA GREEN BUILDING STANDARDS CODE BY REFERENCE AND ADD REQUIREMENTS AND INCENTIVES TO INCORPORATE GREEN BUILDING PRINCIPLES AND PRACTICES INTO NEW DEVELOPMENT

County Counsel Summary

This ordinance amends Chapter 18.12 of the Monterey County Code to add requirements and incentives for incorporating “green” building principles and practices into new development in the unincorporated area of Monterey County. Current Chapter 18.12 incorporates the 2010 California Green Building Standards Code, also known as “CALGreen,” into the Monterey County Code and provides incentives for voluntary compliance with CALGreen Tier 1 and Tier 2 measures. CALGreen uses building concepts that encourage sustainable construction practices and increase energy efficiency, water efficiency and conservation, and other material conservation and resource efficiency in the design and construction of buildings. This ordinance adopts the 2010 California Green Building Standards Code by reference into the Monterey County Code with the following modifications: it generally requires new County of Monterey government facilities and major remodels of County facilities to be designed to meet CALGreen Tier 1 efficiency levels or their functional equivalent; it updates the incentives for new private development to comply voluntarily with CALGreen Tier 1 and Tier 2 Standards or equivalent green building rating systems; and it generally requires new non-residential structures that are greater than 25,000 square feet to provide on-site renewable energy generation for at least 15 percent of the projected energy demand.

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. Declarations and Findings of Fact.

A. Pursuant to California Health and Safety Code Sections 17958.5 and 17958.7, the Board of Supervisors of the County of Monterey finds that changes or modifications to the 2010 California Green Building Standards Code, also known as “CALGreen,” (California Code of Regulations, Title 24, Part 11) are reasonably necessary because of local climatic, geological or topographical conditions. Specifically, each of the changes and modifications set forth in this ordinance are reasonably necessary due to the following conditions:

1. Climate Change: The County finds that amendments to CALGreen are necessary to address climate change. Climate change is of global and local concern as recognized by the State of California in Assembly Bill 32 (Global Warming Solutions Act of 2006), among other legislation. These local amendments will help slow the effects of climate change in the County by increasing energy efficiency and minimizing greenhouse gas emissions from new development.

2. Limited Water Supply: The County has documented water supply constraints. Modifications to the Green Building Standards Code will reduce demand for the limited water supply in the County.

3. Implement the 2010 General Plan: Policy OS-10.12 of the 2010 General Plan requires the County to adopt a Green Building Ordinance in the non-coastal unincorporated area of the County. This ordinance adopts green building technologies and strategies that implement the General Plan.

4. Consistency with the Local Coastal Program: The 1982 General Plan applies in the coastal areas of the County. Goals 13 and 14 of the 1982 General Plan encourage energy efficiency and renewable energy generation. This ordinance is consistent with these goals by encouraging energy efficient building design and on-site renewable energy generation. Chapter 18.12 of the Monterey County Code applies in the coastal zone and is consistent with the Coastal Act and the County's certified Local Coastal Program (LCP), but Chapter 18.12 is not part of the LCP. Accordingly, this ordinance amending Chapter 18.12 does not need certification by the California Coastal Commission.

B. This ordinance is categorically exempt pursuant to Section 15307 of the California Environmental Quality Act (CEQA) Guidelines, which exempts actions taken by regulatory agencies to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment. CALGreen, with the proposed local amendments, will protect resources by minimizing reliance on non-renewable energy sources, encouraging water conservation, and minimizing greenhouse gas emissions which lead to climate change. All future development projects will continue to be evaluated pursuant to the requirements of CEQA irrespective of this ordinance.

SECTION 2. Chapter 18.12 of the Monterey County Code is amended to read as follows:

Chapter 18.12
GREEN BUILDING STANDARDS CODE

Sections:

- 18.12.010 – Adoption.
- 18.12.020 – Purpose.
- 18.12.030 – Definitions.
- 18.12.040 – Standards for compliance.
- 18.12.050 – Qualification for incentives.

- 18.12.060 – Energy generation requirements.
- 18.12.070 – Requirements of County buildings.
- 18.12.080 – Interaction with other regulations.

18.12.010 Adoption

That certain document entitled 2010 California Green Building Standards Code, California Code of Regulations, Title 24, Part 11, also known as CALGreen, as published by the California Building Standards Commission, is hereby adopted by reference. CALGreen, as modified to include the regulations set forth in this Chapter, is adopted as the green building standards code for the County of Monterey.

18.12.020 Purpose.

A. The purpose of this Chapter is to improve the public health, safety and general welfare by encouraging responsible use of resources in the design and construction of buildings, by using building concepts having a reduced negative impact or having a positive environmental impact, and by encouraging sustainable construction practices to:

1. Increase energy efficiency in buildings;
2. Reduce potable water demand;
3. Encourage natural resource conservation;
4. Reduce waste generated by construction projects;
5. Provide durable buildings that are efficient, cost effective, and economical to own and operate; and
6. Promote the health and productivity of residents and workers who occupy and live in buildings within the County.

18.12.030 Definitions.

The following definitions shall apply for the purposes of this Chapter:

- A. "Applicant" means any person or entity applying to the County for a building permit to undertake any covered project within the County.
- B. "Alternative Means" means a method of achieving the green building performance standards equivalent to CALGreen Tiers 1 or 2 (for example, compliance and certification by a third party Green Building Rating System such as Leadership in Energy and Environmental Design (LEED) or GreenPoint Rated systems).
- C. "Compliance Official" means the Building Official of the Resource Management Agency – Building Services Department or his/her designee charged with the administration and enforcement of this Chapter.
- D. "Green Building Rating System" means a rating system with specific building design criteria used to determine compliance thresholds. Examples of rating systems include, but are not limited to, the LEED and GreenPoint rated systems.
- E. "GreenPoint Rated" means a rating system developed by the Build It Green organization to certify a residential structure meets certain energy and resource efficiency standards.

F. "LEED" means the "Leadership in Energy and Environmental Design" green building rating system developed by the U.S. Green Building Council.

G. "Major Remodel" means any remodel that involves two or more of the following:

1. Demolition and new construction of fifty percent (50%) or more of the interior or exterior walls within a building;
2. The permit valuation exceeds \$500,000; or
3. Electrical, plumbing, mechanical, and structural repairs affecting an area of 5,000 square feet or more.

H. "Non-residential structure" means a building not used for a residential use with a designated Occupancy Classification of A, B, E, F, H, I, L or M in the California Building Standards Code.

I. "Rebuild" means demolition and reconstruction of a building or structure involving the repair or replacement of fifty percent (50%) or more of the exterior walls or involving work that exceeds half of the appraised value of the structure.

18.12.040 Standards for compliance.

A. Standards for compliance with CALGreen shall be those standards contained in Part 11 of Title 24 of the California Building Standards Code.

B. For the purposes of this Chapter, the following equivalency levels are assumed:

1. CALGreen mandatory requirements are generally equivalent to LEED basic standards and GreenPoint rating of a minimum of 18 points across all resource categories;
2. CALGreen Tier 1 standards are generally equivalent to LEED Silver standards and GreenPoint rating of a minimum of 33 points across all resources categories; and
3. CALGreen Tier 2 standards are generally equivalent to LEED Gold or better and GreenPoint rating of a minimum of 65 points across all resource categories.

18.12.050 Qualification for incentives.

A. Newly constructed buildings, including a Rebuild, that incorporate additional prerequisite and elective green building measures to meet or exceed CALGreen Tier 1 thresholds, or the equivalent, shall receive the following incentives:

1. A step 1 incentive rebate, in the amount set by resolution of the Board of Supervisors, to be applied towards construction permit fees; and
2. A Healthier Home or Business Award from the County.

B. Newly constructed buildings, including a Rebuild, that incorporate additional prerequisite and elective green building measures to meet or exceed the 2010 CALGreen Tier 2 thresholds, or the equivalent, shall receive the following incentives:

1. A step 2 incentive rebate, in the amount set by resolution of the Board of Supervisors, to be applied towards construction permit fees; and
2. A Healthier Home or Business Award from the County.

C. For projects qualifying for incentives pursuant to Subsection A or B of this Section, the Compliance Official may assign an experienced staff person to coordinate review of construction permits by all County departments.

D. When the CALGreen Green Building Rating System is used, the Compliance Official shall be responsible for verifying that buildings have been designed to qualify for the incentives described in this Section.

E. When Alternative Means to the CALGreen Green Building Rating System are proposed, documentation by a qualified professional for the chosen Green Building Rating System shall be provided to the Compliance Official for his or her review and approval prior to the Applicant being entitled to any incentives described in this Section. Required documentation and certification of meeting the standards under the Alternative Means shall be supplied at the Applicant's expense. Compliance with Alternative Means is in addition to, and does not alleviate compliance with, the requirements of the California Building Code including the minimum mandatory requirements of CALGreen.

F. The incentive rebate fees described in this Section shall not be combined with other construction permit fee incentives.

18.12.060 Renewable energy generation requirements

All new Non-residential structures greater than 25,000 square feet shall provide on-site renewable energy generation as part of their development. A minimum of fifteen percent (15%) of the projected energy demand shall be provided by on-site renewable sources. An exception to this requirement may be approved by the Compliance Official if the Applicant can demonstrate that on-site renewable energy generation is not appropriate at the site and that alternative design elements better achieve the desired level of efficiency (at least 15% of the total energy demand).

18.12.070 Requirements for County-owned buildings.

A. CALGreen Tier 1 standards, or the functional equivalent, are adopted as the minimum mandatory design standards for newly constructed County-owned buildings and Major Remodels of existing County-owned buildings.

B. All new County-owned buildings shall be subject to the renewable energy generation requirements of Section 18.12.060 of this Chapter. Major Remodels of County-owned buildings are not subject to the requirements of section 18.12.060 but may provide on-site renewable energy generation in connection with achieving CALGreen Tier 1 standards.

C. The requirements of subsections A and B of this Section do not apply to County-owned projects that have already been financed as of December 31, 2012 where compliance with this requirement would conflict with existing grants and financing that are already in place. The Compliance Official shall have the authority to waive the requirements of subsections A and B of this Section where their application would conflict with local, state, or federal policies or regulations.

D. The requirements of subsection A of this Section do not apply to the Monterey County Government Center (MCGC) East and West Wings – Renovation Project for the following reasons:

1. Preparations for the MCGC East and West Wings – Renovation Project began prior to adoption of the 2010 General Plan. Substantial time was invested in studies and planning for this project prior to adoption of the requirements of this Section, and the requirements of this Section would delay this project;

2. The MCGC East and West Wings are on the National Register of Historic Places, and green building techniques could interfere with historic preservation and raise costs considerably; and

3. The County will consider alternative methods of achieving the objectives and purposes of this Chapter for the MCGC East and West Wings Renovation Project.

18.12.080 Interaction with other regulations.

This Chapter is not intended to apply when it is preempted by federal or state laws or regulations, including but not limited to conservation standards applicable to appliances and equipment, including heating, ventilating, and air conditioning ("HVAC") products and water heaters. Many other laws, regulations, and ordinances apply to building design construction and maintenance and to development. The provisions of this Chapter are intended to be in addition to and not in conflict with these other laws, regulations, and ordinances. If any provision of this Chapter conflicts with any duly adopted and valid federal or state statute or regulation, the federal or state statutes or regulations shall take precedence.

SECTION 3. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this 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 be declared invalid.

SECTION 4. EFFECTIVE DATE. This ordinance shall become effective on the 31st day following its adoption.

PASSED AND ADOPTED on this ___ day of _____, 2013, by the following vote:

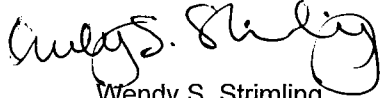
AYES:
NOES:
ABSENT:
ABSTAIN:

Chair,
Monterey County Board of Supervisors

A T T E S T :

GAIL T. BORKOWSKI
Clerk of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM:

Wendy S. Strimling
Senior Deputy County Counsel