

**DOCKETED**

<b>Docket Number:</b>	19-BSTD-06
<b>Project Title:</b>	Local Ordinances Exceeding the 2019 Energy Code
<b>TN #:</b>	232161-3
<b>Document Title:</b>	City of Mill Valley - 2019 Ordinance No 1313
<b>Description:</b>	Plain text of the City of Mill Valley ordinance no. 1313
<b>Filer:</b>	Danuta Drozdowicz
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
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**ORDINANCE NO. 1313**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILL VALLEY DELETING CHAPTER 14.44 AND AMENDING CHAPTER 14.48 TO ADOPT BY REFERENCE THE 2019 EDITION OF THE CALIFORNIA GREEN BUILDING STANDARDS CODE, WITH AMENDMENTS TO REFLECT LOCAL CONDITIONS**

**SECTION 1:** Chapter 14.44 of the Mill Valley Municipal Code is hereby deleted.

**SECTION 2:** Chapter 14.48 of the Mill Valley Municipal Code is hereby deleted and replaced in its entirety as follows:

**“Chapter 14.48 GREEN BUILDING STANDARDS**

**14.48.010 California Green Building Standards Code adopted by reference.**

**14.48.020 Local amendments to the California Green Building Standards Code.**

**14.48.030 Definitions.**

**14.48.040 Green building requirements by project type.**

**14.48.050 Documentation and verification.**

**14.48.060 Exemptions.**

**14.48.070 Appeal.**

14.48.010 California Green Building Standards Code adopted by reference.

The City hereby adopts by reference the 2019 edition of the California Green Building Standards Code, Title 24, Part 11 of the California Code of Regulations (“CALGreen”), including the following Appendix chapters and together with those amendments, additions, and deletions set forth in this Chapter 14.48 of the Mill Valley Municipal Code:

- A. Appendix Chapter A4 - Residential Voluntary Measures (Tier 1 levels for new construction, as defined in Section 14.48.030)
- B. Appendix Chapter A5 - Nonresidential Voluntary Measures (Tier 1 levels for new construction, as defined in Section 14.48.030)

This code, together with amendments, additions, and deletions set forth in Chapter 14.48, shall constitute the Green Building Standards of the City of Mill Valley and may be cited as such.”

14.48.020 Local amendments to the California Green Building Standards Code.

The 2019 California Green Building Standards Code (“CALGreen”) adopted herein by reference is hereby amended by the following additions, deletions, and amendments, together with such changes made by Sections 14.48.030 through 14.48.070:

Section 202 of Chapter 2 is hereby amended by revising the definitions of Electric Vehicle Charging Station and of Newly Constructed (or New Construction) as underlined and struck through, to read as follows:

**ELECTRIC VEHICLE CHARGING STATION (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.

**NEWLY CONSTRUCTED (or NEW CONSTRUCTION).** A newly constructed building (or new construction) includes the production of new or replacement building(s) and major remodels ~~does not include additions, alterations, or repairs.~~

Section 301.1 of Chapter 3 is hereby amended by revising the first sentence as underlined and struck through:

**301.1 Scope.** Buildings shall be designed to comply with the applicable requirements of Chapter 14.48 of the Mill Valley Municipal 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 is hereby amended by revising the first sentence 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 the applicable requirements of Chapter 14.48 of the Mill Valley Municipal Code.

Section 301.3 of Chapter 3 is hereby amended by revising the first sentence 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).

Section 4.106.4.2 of Chapter 4 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 Section 14.48.040 of the Mill Valley Municipal 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 is hereby amended as underlined and struck through, and deleting Table 4.106.4.3.1, and shall read in its entirety as follows:

**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 Section 14.48.040 of the Mill Valley Municipal 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 is hereby amended by revising the first sentence as underlined:

**Section 5.106.5.3 Electric Vehicle (EV) 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 Section 14.48.040 of the Mill Valley Municipal Code, to facilitate future installation of electric vehicle supply equipment (EVSE).

Section 5.106.5.3.3 of Chapter 5 is hereby amended by revising the first sentence as underlined and struck through, and by deleting Table 5.106.5.3.3:

**Section 5.106.5.3.3 EV charging space calculation.** [N] ~~Table 5.106.5.3.3~~ Table 1 of Section 14.48.040 of the Mill Valley Municipal 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 is hereby amended by revising “Tier 1” 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 Section 14.48.040 of the Mill Valley Municipal 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 is hereby amended by revising “Tier 1” 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 Section 14.48.040 of the Mill Valley Municipal 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 is hereby amended by revising the first sentence 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 Section 14.48.040 of the Mill Valley Municipal Code, to facilitate future installation of electric vehicle supply equipment (EVSE).

Section A5.106.5.3.1 of Appendix A5 is hereby amended by revising “Tier 1” as underlined and struck through, and by deleting Table A5.106.5.3.1:

**A5.106.5.3.1 Tier 1.** ~~Table A5.106.5.3.1~~ Table 1 of Section 14.48.040 of the Mill Valley Municipal 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.

#### 14.48.030 Definitions.

For the purposes of interpreting this chapter and the associated standards for compliance, the terms below are defined as follows. These definitions are in addition to those outlined in Section 202 of the California Green Building Standards Code, as modified in Section 14.48.020 of the Mill Valley Municipal Code. In the event of a conflict between the definitions in this section and in Section 202, the definitions in this section shall control.

- A. **"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.
- B. **"Certified Green Building Rater"** means a person acting as the owner’s agent to ensure compliance with green building requirements. Those persons representing national and regional green building organizations including, but not limited to, CALGreen, Build It Green and LEED, are considered certified green building raters.
- C. **"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.
- D. **"CALGreen Tier 1"** refers to required requisite 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.
- E. **"Efficiency EDR Compliance Margin"** is the difference in the energy design rating (“EDR”) of standard efficiency and the EDR of proposed efficiency for a building, as demonstrated on Title 24 compliance documents.
- F. **"EV Capable"** refers to a parking space with conduit installed and allocated 208/240V 40-amp panel capacity for future EV charging stations.

- G. **"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.
- H. **"Green Building Compliance Form"** means the signature page submitted to the City signed by a Certified Green Building Rater, indicating that applicable project complies with the City's Green Building requirements.
- I. **"Limited mixed-fuel"** means a building where natural gas and/or propane are only used for cooking and fireplaces.
- J. **"Major remodel"** means structural modifications or additions made to a dwelling, which are greater than 50% of either: (1) the current square footage of such dwelling; or (2) the current exterior roof structure and exterior walls of such dwelling.
- K. **"Minor remodel"** means modifications or additions made to a dwelling which are not considered to be a major remodel.
- L. **"Mixed-fuel"** means a building where both natural gas and/or propane and electricity are used.
- M. **"Modified parking lot"** means a parking lot for which paving material and curbing is removed.
- N. **"Total EDR Compliance Margin"** is the difference in the EDR of the total standard design and the EDR of the total proposed building, as demonstrated on Title 24 compliance documents. This incorporates the efficiency EDR compliance margin as well as the EDR points associated with photovoltaics and flexibility such as battery storage.

14.48.040 Green building requirements by project type.

The Mill Valley Municipal Code defines compliance thresholds for different projects that are covered by this chapter. These standards are outlined below in Table 1.

Table 1: Requirements by Project Type and Size			
Project Type and Size	Green Building Requirements	Additional Energy Efficiency Requirements	Electric Vehicle Requirements

Single and Two-Family New Construction	CALGreen Tier 1, including Section A4.2 (Energy Efficiency)	<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 3, demonstrated on Title 24 energy reports</p> <p><u>OR</u></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 14.48.030 for applicable definitions 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	
Multifamily New Construction 3 stories or less	CALGreen Tier 1, including Section A4.2 (Energy Efficiency)	<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 0.5, demonstrated on Title 24 energy reports</p> <p><u>OR</u></p> <p>“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 14.48.030 for applicable definitions of “All-electric”, “Limited mixed-fuel”, and “Mixed-fuel”</p>	Build one electric vehicle charging space <sup>1</sup> per dwelling unit, as defined in Chapter 17.04.026 of Mill Valley Municipal Code (but not including an accessory dwelling unit), complying with technical requirements referenced in A4.106.8.2.1

<p>Multifamily New Construction 4 stories or greater</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 14.48.030 for applicable definitions of “All-electric”, “Limited mixed-fuel”, and “Mixed-fuel”</p>	
<p>Nonresidential Additions and Alterations less than 3,000 square feet</p>	<p>CALGreen Tier 1, less Section A4.2 (Energy Efficiency)</p>	<p>Meet the standards outlined for the project in the 2019 Building Energy Efficiency Standards</p>	<p>If the service panel is modified, add designated electrical capacity for 20% of onsite parking spaces to be EV Capable<sup>1</sup>.</p> <p>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.</p>
<p>Nonresidential Additions and Alterations 3,000 square feet or greater</p>		<p>Meet the standards outlined for the project in the 2019 Building Energy Efficiency Standards</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.

**14.48.050 Documentation and Verification.**

All covered projects shall comply with the requirements set forth in Section 14.48.040 through the following verification methods.

- A. **Verification of Compliance.** All covered projects must comply with green building requirements as part of the building permit and plan check process. A certified Green Building Rater shall verify compliance by submitting signatures on the Green Building Compliance Form at the time of building permit application and as part of final inspection. When a building permit is applied for, checklists must be filled out by a

Green Building Rater and included with the submittal package. The checklist shall be reviewed for accuracy the Planning and Building Department. The Building Department will review the checklist prior to issuance of a building permit. Building plans shall indicate in the general notes or individual detail drawings, where appropriate, the green building measures to be used to satisfy the green building requirements. Prior to final inspection, checklists must be verified by a Green Building Rater as completed and final work satisfying the green building requirements. Any changes or modifications to the checklists must be verified and approved by the Green Building Rater. Documentation and verification shall be collected by the Green Building Raters. During the permit and inspection process, building staff may request to review some or all of the green building documentation.

- B. **Costs of Documentation and Verification.** All costs for inspections, documentation and verification of compliance with green building requirements, including the hiring of a Certified Green Building Rater, a certified commissioner, or certified home performance contractors, shall be borne by the applicant for a building permit.

#### 14.48.060 Exemptions.

- A. This section shall not apply to any project that received and maintains a valid planning approval or a building permit or which has submitted a complete planning application or building permit application prior to the effective date of the ordinance codified in this chapter unless otherwise required as a condition of approval of a discretionary land use or zoning permit.
- B. **Hardship or Infeasibility.** An exemption from the standards for compliance may be granted by the Community Development Director under special circumstances. Such circumstances may include, but are not limited to, the following:
1. Availability. Lack of green building materials and/or technology to comply with green building requirements;
  2. Scope of Project. The scope of the covered project is insufficient to comply with the green building standards;
  3. Conflict with other Provisions. There is conflict between green building requirements and other building or zoning standards or other City goals, such as those requiring historic preservation;
  4. Historic Preservation. Those projects requesting an exemption based on the historic character of a building, site or historic overlay zoning designation shall provide a written request to the Director of Planning and Building regarding the exemption, and describe how the project is consistent with the Secretary of the Interior's Standards for Historic Rehabilitation and/or Chapter 20.54 "Historic Overlay District" zoning requirements.
- C. **Process.** A covered project must qualify as exempt from the requirements in this chapter by applying for an exemption at the time a planning or building permit application is submitted, whichever occurs first. The applicant shall indicate the maximum threshold of compliance he or she believes is feasible for the covered project and the circumstances that he or she believes create a hardship or make it infeasible to fully

comply with this chapter. The exemption determination by the Director of Planning and Building shall be provided in writing to the applicant, with a revised green building requirements meeting the basic California Green Building Code requirements.

14.48.070 Appeal.

Any aggrieved applicant may appeal the determination of the Director of Planning and Building regarding: (1) the granting or denial of an exemption pursuant to Section 14.48.060; or (2) compliance with any other provision of this chapter. Any appeal must be filed in writing with the Director of Planning and Building no later than 14 days after the date of the exemption determination. The appeal shall state the alleged error or reason for the appeal. A timely filed appeal shall be processed and considered by the Planning Commission in accordance with the provisions of Chapter 20.100 of the Mill Valley Municipal Code.”

**SECTION 3:** The City Council of the City of Mill Valley 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), as it can be seen with certainty that there is no possibility that the adoption of this ordinance may have a significant effect on the environment.

**SECTION 4: Severability.** If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Mill Valley hereby declares that it would have adopted this ordinance and each section, subsection, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases, or portions thereof may be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared severable.

**SECTION 5: Publication.** This ordinance shall become effective at 12:01 a.m. on January 1, 2020, provided that the additional energy efficiency requirements of this Ordinance cannot be enforced by the City until it has further been approved by the California Energy Commission pursuant to Public Resources Code Section 25402.1(h)(2). The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be published or posted in the manner prescribed by law.

**SECTION 6:** The City Clerk is hereby directed to cause a copy of this ordinance to be filed with the California Building Standards Commission as required by Health and Safety Code Section 17958.7 and the California Energy Commission as required by Public Resources Code Section 25402.1(h)(2).

**INTRODUCED** at a regular meeting of the City Council of the City of Mill Valley on the **18th** day of **November, 2019**, and

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Mill Valley on this **2<sup>nd</sup>** day of **December 2019**, by the following vote:

AYES: Councilmembers: McCauley, Moulton-Peters, McEntee, Wickham  
NOES: None  
ABSENT: None  
ABSTAIN: None

  
James P. Wickham, Mayor

ATTEST:

  
Seth Allingham, Deputy City Clerk/Administrative Analyst