



# Napa County

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## Legislation Text

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**TO:** Board of Supervisors

**FROM:** Brian D. Bordona, Director of Planning, Building, and Environmental Services

**REPORT BY:** David Morrison, Director of Special Projects

**SUBJECT:** Introduction and intention to adopt an Ordinance adopting local modifications of the 2022 edition of the California Energy Code to reduce greenhouse gas emissions and reduce the impacts of climate change, and a Resolution of Findings as required by state law

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### **RECOMMENDATION**

PUBLIC HEARING - Introduction of Ordinance

Introduction and intention to adopt an Ordinance adopting local modifications of the 2022 edition of the California Energy Code to reduce greenhouse gas emissions and to reduce the impacts of climate change, and adopt a Resolution of Findings as required by state law (No Fiscal Impact; Discretionary).

### **BACKGROUND**

In 2023, the Napa County Climate Action Committee (CAC) oversaw the preparation of a regional greenhouse gas (GHG) emissions inventory for the unincorporated area and the cities and town. The regional GHG inventory was accepted by the Board of Supervisors in December of 2023. Using 2019 as the baseline, the inventory estimated that building energy use in the unincorporated area resulted in the emission of 61,068 metric tons of carbon dioxide equivalent (MTCO<sub>2e</sub>). Buildings contributed 16.2 percent of the total GHG emissions for the unincorporated area in 2019.

The 2008 Napa County General Plan specifically addressed this issue in Action Item CON CPSP-2:

“The County shall conduct a GHG emission inventory analysis of all major emission sources in the County by the year 2008 in a manner consistent with Assembly Bill 32, and then seek reductions such that emissions are equivalent to year 1990 levels by the year 2020. Development of a reduction plan shall include consideration of a “green building” ordinance and other mechanisms that are shown to be effective at reducing emissions.”

Over the past several years, a number of jurisdictions in California have adopted reach building codes to encourage or require all-electric homes and businesses in new construction, based on concerns for either health

and/or greenhouse gas emissions. The California Energy Commission (CEC) currently list 39 jurisdictions with reach codes, the majority of which are located in the Bay Area (<https://localenergycodes.com>).

During the July 2023 Climate Action Committee (CAC) regular meeting, staff was directed to research and report back on options and a recommendation for developing a reach building code for future consideration by the member jurisdictions. At the August 25, 2023 regular meeting, the CAC discussed the development of a reach building code and directed staff to bring back a draft reach building code for recommendation by the CAC and future consideration by the member jurisdictions.

A total of nine options were provided by staff to the CAC at the August meeting. Staff recommended the development of a Flex-Path reach code. This approach encourages energy improvements that favor electrification, but do not mandate it. Staff recommended this option as it is both legally defensible and will reduce greenhouse gas emissions to the greatest extent compared to the other viable options. A majority of the CAC supported staff's recommendation. Staff then prepared a draft reach building code, based on the draft ordinance recommended by the California Energy Commission (CEC), and circulated it to the Chief Building Officials in each member jurisdiction, California Energy Codes and Standards Program (a collaboration between the CEC and state utilities), and local contractors and design professionals. The CAC considered the draft ordinance at their meeting on October 27, 2023, and unanimously recommended that it be forwarded to member jurisdictions for consideration.

## PRIOR BOARD OF SUPERVISORS ACTION

The proposed reach code was presented to the Board of Supervisors for consideration on April 9, 2024. It included the following for new residential buildings:

- Require new standards to disincentivize the use of natural gas in new residential construction. Non-residential construction is only required to be electric ready. According to the CEC, standards for non-residential construction are not yet available.
- Exempt any remodels or additions for the first three years after the construction of a new single-family residence.
- Exempt free-standing accessory dwelling units (ADUs). Junior accessory dwelling units (JADUs) that are incorporated into the main dwelling would not be exempt. Placing additional requirements on free-standing ADUs may be considered a barrier to affordable housing, as well as affect the cost-effectiveness study.
- Require that single family residences reduce energy use by a minimum of 13 points compared to the Energy Design Rating (EDR1) for a standard home. Multi-family homes would reduce overall energy use by at least 10 percent, as recommended in the most recent draft study issued by the CEC for Climate Zone 2 conditions. (Napa County is classified as Climate Zone 2.)
- Allow the applicant to submit a Certificate of Compliance signed by a Certified Energy Analyst, which

may reduce the compliance margin by 1 percent.

- Do not require the installation of solar batteries in new homes. All new residential units already require solar panels and must be battery ready. Solar batteries are required to be installed in new commercial buildings and multi-family homes. Requiring them in new single-family homes would add \$10,000 to the cost and may be considered a barrier to affordable housing, as well as affect the cost-effectiveness study. However, the draft ordinance requires architects, contractors, and other design professionals to provide all owners with the option of installing a solar battery system and/or all-electric appliances.
- Require the installation of wiring and outlets for chargers in new homes, to make them electric vehicle ready.

The Board of Supervisors directed staff to return at a future date with recommendations on four issues relating to the draft ordinance. The issues and staff's responses are as follows:

1. Should residential additions be subject to the draft ordinance, and if so, to what extent?

The question of residential additions is complicated. Other jurisdictions have taken a variety of approaches. Sonoma County requires all additions to comply with the higher energy standards. Marin County established a minimum threshold of 750 square-feet before the new standards are applied. Contra Costa County only applies the new standards to the space being added, not to the existing home. Santa Cruz County exempts residential additions from the energy requirements.

Also, additions are treated differently by the California Energy Commission. The economic analysis for additions and/or remodels considers the age of the home, as well as the climate zone. As a result, jurisdictions wanting to include residential additions in their green energy code, must adopt a second cost study and supplemental findings.

After further investigation and analysis, staff recommends that the ordinance exempt residential additions from the new standards. For growing families and other homeowners, building additional space is much more cost effective than moving into a larger home, considering the current housing market and interest rates. Having to retrofit the energy systems of the existing home would place additional burdens for residents with limited options. Including additions would also make the permitting process more complicated and costly to administer.

2. Is the language regarding lot splits and Accessory Dwelling Units consistent with the County Code and State housing law?

Staff has consulted with County Counsel and the outside law firm advising on housing matters to revise the draft ordinance accordingly. The definition of "Free-Standing Accessory Dwelling Unit" now states as follows: "...a detached building that is not intended for sale separate from the primary residence, except pursuant to Government Code Sections 66340 et seq..." This revised language is consistent with the proposed revisions to the County Code and Housing Element, as well as State law.

3. Prepare a Frequently Asked Questions (FAQ) document to accompany the draft ordinance; and

FAQs have been prepared.

4. What is the extent of financing programs available to homeowners?

As discussed in the FAQs, there are several programs available to local homeowners through the BayREN (Bay Area Regional Energy Network) program that can provide both financial and technical assistance. The BayREN program is administered by Napa County on behalf of the unincorporated area, cities, and town.

#### NEXT STEPS

To be consistent with state law, the County must make findings that the proposed building code amendments related to building energy performance are cost effective and use less energy than the standard State Code. A Resolution adopting findings relating to cost effectiveness and energy efficiency is included, along with the supporting studies. If the draft ordinance is adopted, staff would then submit an application to the CEC for review and approval, including the following materials:

1. The proposed energy standards;
2. The local jurisdiction's findings and supporting analyses on the energy savings and cost effectiveness of the proposed energy standards;
3. A statement or finding by the local jurisdiction that the local energy standards will require buildings to be designed to consume no more energy than permitted by Part 6; and
4. Any findings, determinations, declarations or reports, including any negative declaration or environmental impact report, required pursuant to the California Environmental Quality Act.

In addition to these findings, the County must also make findings to show that the local modifications to the adopted State codes are necessary based on local climatic, topographical, or geological conditions. These findings are also contained in the Resolution. The County must file a copy of the ordinance, along with these findings, with the California Building Standards Commission. Once these steps have been completed, then the local amendments to the California Energy Code can go into effect.

CEC review typically takes up to six months. Once the ordinance has been approved by the CEC and filed with the CBSC, then the new code would apply to all new residential and commercial building permits submitted after the effective date. Ordinances take a minimum of 30 days to take effect once adopted. Staff proposes an effective date for the ordinance of January 1, 2025.

The Clerk of the Board caused a notice of the proposed be published in a newspaper of general circulation in Napa County as required by Government Code Section 25124.

#### PROCEDURAL REQUIREMENTS:

1. Open Public Hearing.
2. Staff report.
3. Public comments.
4. Close Public Hearing.
5. Motion, second, discussion, and vote on intention to adopt the Ordinance.
6. Motion, second, discussion, and vote on adoption of Resolution, which is effective on adoption of Ordinance.

**REQUESTED ACTION:**

1. Adopt a motion of intent to adopt the Ordinance
2. Approve the Resolution of findings of fact, which becomes effective upon the adoption of the ordinance.

**FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact?	No
Is it currently budgeted?	No
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	Action Item CON CPSP-2: The County shall conduct a GHG emission inventory analysis of all major emission sources in the County by the year 2008 in a manner consistent with Assembly Bill 32, and then seek reductions such that emissions are equivalent to year 1990 levels by the year 2020. Development of a reduction plan shall include consideration of a “green building” ordinance and other mechanisms that are shown to be effective at reducing emissions.
Is the general fund affected?	No
Future fiscal impact:	None
Consequences if not approved:	Efforts to reduce greenhouse gas emissions related to building energy use in the unincorporated area would be delayed, requiring additional actions to be taken to meet the County’s long-term climate change goals.

**ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The adoption of this ordinance is exempt pursuant to Categorical Exemption Class 3 (“New Construction or Conversion of Small Structures”) under section 15303 of the state CEQA guidelines. The ordinance is further exempt pursuant to CEQA Guidelines 15061(b)(3) in that it can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore the CEQA is not applicable.

