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RESOLUTION NO. 2021-118

**A RESOLUTION OF THE ALBANY CITY COUNCIL UPDATING
AND AMENDING GREEN BUILDING MEASURES AND DETERMINING
SAID PROJECT TO BE EXEMPT FROM THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT**

WHEREAS, the City Council of the City of Albany adopted the Albany 2035 General Plan on April 18, 2016; and

WHEREAS, The City of Albany General Plan Policy *CON-6.1: Green Construction* directs the City towards development of standards and guidelines which support “green” construction and environmental leadership in the building industry; and

WHEREAS, Action *CON-6.A* requires “new construction to meet or exceed California Green Building Code standards for energy and water efficiency,” and that “Albany’s building codes should be regularly reviewed and periodically amended to meet or exceed state requirements;” and

WHEREAS, The City of Albany Climate Action and Adaptation Plan (CAAP) established the objective of 70% greenhouse gas (GHG) emissions reductions by 2035, and net zero emissions by 2045; and

WHEREAS, The CAAP focuses on reducing emissions from the City’s largest emissions sectors, including new and existing buildings. An estimated 40% of GHG emissions in Albany result from the building sector; and

WHEREAS, CAAP Action 3.2.6 directs the City to “Adopt voluntary green building tiers;” and

WHEREAS, The City of Albany General Plan Policy *T-2.3: Low-Emission Vehicles* directs the City to “encourage the use of low emission or zero emission vehicles, along with the infrastructure to support such vehicles, such as electric vehicle charging stations;” and

1
2 **WHEREAS**, The CAAP established the goal that 98% of passenger vehicles in Albany
3 be electric vehicles by 2045; and

4
5 **WHEREAS**, CAAP Action 1.2.2 directs the City to “adopt an electric vehicle
6 readiness ordinance that would increase the charging requirements for new construction and
7 renovations;” and

8
9 **WHEREAS**, The General Plan Policy *CON-4.3: Low Impact Development* directs the
10 City to “support the use of pervious pavement” to “capture and filter rainwater and reduce
11 runoff to local creeks and the Bay;” and

12 **WHEREAS**, Policy *CON-6.9: Reducing Water Usage* directs the City to partner with
13 EBMUD, PG&E, StopWaste and other organizations to achieve water efficiency and reduced
14 usage and support indoor and outdoor conservation practices; and

15
16 **WHEREAS**, on January 19th, 2021 the Albany City Council unanimously approved
17 Resolution No. 2020-127: A Resolution of the Albany City Council to Adopt Green Building
18 Measures; and

19
20 **WHEREAS**, this Resolution will supersede Resolution No. 2020-127. New energy
21 efficiency requirements will be added for mid-rise and high-rise buildings and the outdoor
22 lighting requirement for multifamily buildings will be removed; and

23 **WHEREAS**, the California Health and Safety Code (HSC) Section 18941.5, with
24 reference to HSC Section 17958.7, allows for more restrictive local amendments that are
25 reasonably necessary because of local climatic, geological, or topographical conditions.
26 California Code of Regulations, Title 24, Part 11, California Green Building Standards Code
27 (CALGreen), Section 101.7.1, provides that local climatic, geological, or topographical
28 conditions include environmental conditions established by the city, county, or city and county;
29 and

1 **WHEREAS**, Public Resources Code Section 25402.1(h)(2) and Section 10-106 of the
2 Building Energy Efficiency Standards (Standards) establish a process which allows local
3 adoption of energy standards that are more stringent than the statewide Standards, provided
4 that such local standards are cost effective and the California Energy Commission finds that
5 the standards will require buildings to be designed to consume no more energy than permitted
6 by the California Energy Code; and

7
8 **WHEREAS**, Cost effectiveness studies were prepared for the Statewide Code and
9 Standards Program titled "2019 Cost Effectiveness Study: Low-Rise Residential New
10 Construction," and "2019 Nonresidential New Construction Reach Code Cost Effectiveness
11 Study," and "2019 Mid-Rise New Construction Reach Code Cost Effectiveness Study," and
12 "2019 High-Rise New Construction Reach Code Cost Effectiveness Study" ("Studies"). The
13 Studies analyzed the feasibility and cost effectiveness of requiring new construction to be all-
14 electric for 16 different climate zones in California, including climate zone 3, within which the
15 City of Albany is located. The Studies also determined the efficiency standards for mid-rise
16 and high-rise residential buildings in this Resolution will meet the Study's cost-effectiveness
17 requirements in climate zone 3. Based on this, the City Council of the City of Albany hereby
18 determines that the measures being adopted by the City are cost effective as documented in the
19 Studies; and

20 **WHEREAS**, Section 12-6.1(b)(4)(p) of the Albany Municipal Code allows the City
21 Council to establish, by resolution and periodically review and update, more-stringent
22 voluntary measures contained in the California Green Building Standards Code appendices to
23 address local environmental conditions; and

24 **WHEREAS**, The City Council finds that this Resolution is exempt from the California
25 Environmental Quality Act codified in California Public Resources Code section 21000 et seq.
26 (CEQA), pursuant to Subdivision (b)(3) of Section 15061 of the CEQA Guidelines, codified
27 in Title 14 of the California Code of Regulations, because its standards are more stringent than
28 the 2019 Energy Code, there are no reasonably foreseeable adverse environmental impacts,
29 and there is no possibility that the activity in question may have a significant impact on the
environment; and

1
2 **WHEREAS**, the State of California allows local jurisdictions to amend the California
3 Building Standards Code where necessary to reasonably address adverse local conditions
4 related to climate, geology, and/or topography, and thus the City Council makes the following
5 findings regarding local conditions:

- 6 a) Topography: the City of Albany is a dense built-out community with predominately
7 older wood-frame commercial and residential structures that lack modern fire
8 protection elements, are located on small lots with minimal setbacks that increase
9 the potential for rapid fire spread, and are reached by narrow streets that often
10 hamper emergency response;
- 11 b) Furthermore, the eastern edge of the City of Albany is located less than two miles
12 from the ridgeline of the East Bay Hills, in the path of “Diablo Winds,” which could
13 rapidly bring a wildland fire from the East Bay Hills into the City;
- 14 c) Geology: The City of Albany is vulnerable to major earthquakes on the San
15 Andreas, Hayward and Calaveras faults, which are expected to result in damage to
16 aging underground infrastructure including natural gas lines and water lines needed
17 for fire suppression. Reducing the reliance on natural gas in new construction will
18 decrease the risk of fires caused if gas lines rupture in a seismic event;
- 19 d) Furthermore, the City of Albany lacks access to secondary sources of water for fire
20 suppression in the event of damage to primary water supply;
- 21 e) Climate: The City of Albany is frequently is exposed to extremely high risk “red
22 flag” fire conditions consisting of warm temperatures, low humidity, and strong
23 winds that combine to produce an increased risk of fire danger. These conditions
24 have worsened in recent years due to global warming;
- 25 f) Furthermore, climate conditions have resulted in Albany experiencing dangerous
26 air quality for weeks, even from distant fires;
- 27 g) Reducing greenhouse gas (GHG) emissions associated with the design,
28 construction, maintenance, and operation of buildings is necessary to reduce the
29 City of Albany’s contribution to climate change, which is causing the severe local
30 climatic conditions.

1 **NOW, THEREFORE, THE ALBANY CITY COUNCIL RESOLVES AS**
2 **FOLLOWS:.**

3
4 **Section 1: Applicability**

5 The requirements of this Resolution shall apply to applications subject to planning review
6 submitted on or after the Effective Date set forth in Section 6, for all buildings proposed to be
7 located in whole or in part within the City. Applications submitted prior to the Effective Date
8 of this Resolution, shall comply with Resolution No. 2020-127 as applicable. Buildings must
9 comply with all measures that are applicable to the building type in question and to the specific
10 areas of the building in which construction is occurring.

11
12 **Section 2: Definitions**

- 13 A. Accessory Dwelling Unit (ADU) has the same meaning as defined in the California
14 Building Code, Title 24, Part 11, Section 202.
- 15 B. Addition means an extension or increase in floor area of an existing building or
16 structure.
- 17 C. Alteration means any construction or renovations to an existing structure other than
18 repair or addition.
- 19 D. All-Electric Building means a building in which all appliances are fueled only by
20 electricity and natural gas is not used.
- 21 E. Clean Air Vehicle means any vehicle certified to zero-emissions standards, high-
22 efficiency vehicles bearing High-occupancy Vehicle (HOV) carpool lane stickers
23 issued by the Department of Motor Vehicles, or carpool or van pool vehicles.
- 24 F. Compliance Margin is a percentage that represents the degree to which a given
25 nonresidential building, mid-rise building, or high-rise building exceeds the energy
26 budget determined in the California Energy Code. The compliance margin is
27 calculated by finding the difference between the energy budget of the building and
28 the actual energy use of the building, both of which are determined by compliance
29 software, and dividing that number by the energy budget. The higher the percentage,
 the lower the energy use of the building.

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- G. Compliance Software is software that has been approved pursuant to Section 10-109 of Part 1 of the California Administrative Code, to demonstrate compliance with the performance approach of Part 6 of the California Building Code (Energy Code Part 6 Section 100.1).
- H. Efficiency Margin refers to an EDR Margin that is achieved only by increasing the energy efficiency of the structure itself, without the use of additional photovoltaics or energy storage batteries. This only applies to residential buildings.
- I. Electric Vehicle Charging Station (EVCS) shall have the same meaning as defined in the California Building Code, Title 24, Part 11, Section 202.
- J. Electric Vehicle-Ready Space shall mean a parking space for which construction documents indicate wiring schematics, raceway methods, the raceway termination point and proposed location of future EV spaces and EV chargers. Raceways and related components that are planned to be installed underground, enclosed, inaccessible or in concealed areas and spaces shall be installed at the time of original construction.
- K. Energy Budget means the maximum energy consumption that a proposed building, or portion of a building can be designed to consume, calculated using compliance software. The Energy Budget of each building is determined using the Compliance Software certified by the California Energy Commission.
- L. Energy Design Rating (EDR) is a number between 0 and 100 that signifies the energy efficiency of a given residential building, with 0 being a zero-net energy building and 100 being equivalent to the energy efficiency of a 2006 International Energy Conservation Code (IECC) compliant building. The EDR of each building is determined using the Compliance Software certified by the California Energy Commission.
- M. Energy Design Rating (EDR) Margin means the difference between the EDR value that is required by the California Energy Code and the actual EDR value achieved by a given residential building. Both values are determined using the Compliance Software certified by the California Energy Commission.

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- N. High-Rise Building means a multifamily building with 8 or more stories.
- O. Low-Rise Building means a multifamily building with fewer than 4 stories.
- P. Mid-Rise Building means a multifamily building with 4-7 stories.
- Q. Mixed-fuel Building means a building that is fueled by both natural gas and electricity.
- R. Multi-family Building means a residential building that contains more than two dwelling units, excluding accessory dwelling units.
- S. Natural Gas shall have the same meaning as “Fuel Gas” as defined in California Plumbing Code and Mechanical Code.
- T. Newly Constructed Building shall be defined as a building that has never before been used or occupied for any purpose.
- U. Nonresidential Building means all buildings that are not classified in Occupancy Group R-2, R-3, or R-4, as defined in the 2019 California Building Code, Title 24, Part 2, Section 310.
- V. Office Building means a building which is classified in Occupancy Group B, as defined by the 2019 California Building Code, Title 24, Part 2, Section 304.1
- W. Permeable Paving means paving using materials and techniques which allow the movement of water around the paving material and allow precipitation to percolate through the paving surface to the soil below.
- X. Residential Building means a structure arranged, designed, and intended to be occupied as a primary residence. This includes all buildings of Occupancy Group R-2, R-3, or R-4, as defined in the 2019 California Building Code, Title 24, Part 2, Section 310, including any associated ADU’s.
- Y. Repair means reconstruction or renewal of any part of an existing building for the purposes of maintenance or damage correction.
- Z. Retail Building means a building which is classified in Occupancy Group M, as defined by the 2019 California Building Code, Title 24, Part 2, Section 309.1
- AA. Resilient Flooring has the same meaning as defined in the California Building Code, Title 24, Part 11, Section 202.

- 1 BB. Single-family Building means a structure that contains one or two dwelling units. An
2 accessory dwelling unit may also be located in or associated with a single-family
3 dwelling and may be attached or detached.
4
5 CC. Solar Zone has the same meaning as defined in 2019 California Energy Code, Title
6 24, Part 6, Section 100.1 and Section 110.10.
7
8 DD. Volatile Organic Chemicals, or “VOC” has the same meaning as defined in the
9 California Building Code, Title 24, Part 11, Section 202.

10 **Section 3: Green Building Requirements**

- 11 A. Newly constructed residential buildings, excluding Accessory Dwelling Units (ADUs)
12 shall be required to meet or exceed the Energy Design Rating (EDR) Margins and
13 Compliance Margins listed in Appendix A.
14
15 B. All new construction, alterations, and additions of residential buildings shall be
16 required to comply with all applicable measures listed in Appendix B.
17
18 C. Twenty percent (20%) of the parking spaces in newly constructed multi-family
19 buildings, rounded to the nearest whole number, shall be Electric Vehicle Charging
20 Stations. The remainder of the parking spaces shall be Electric Vehicle-Ready. Branch
21 circuit panelboard(s) shall be installed that contain the physical space to accommodate
22 the future installation a minimum of one 40-ampere dedicated branch circuit and
23 overcurrent protective device per EV-Ready space and have sufficient electrical
24 capacity to deliver a minimum 40 amperes at 208 or 240 volts multiplied by 20% of
25 the total number of parking spaces. The service panel and/or subpanel circuit directory
26 shall identify the overcurrent protective device space(s) reserved for future EV
27 charging purposes as “EV CAPABLE” in accordance with the *California Electrical*
28 *Code*.
29
30 D. Newly constructed retail and office buildings shall be required to meet or exceed the
31 Compliance Margins described in Appendix C.
32
33 E. All newly constructed nonresidential buildings shall install solar panels on the entire
34 Solar Zone of the roof.

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- a. Exception: If installing solar panels on the entire Solar Zone will result in more electricity production annually than the modeled electricity usage of the building, as determined by compliance software, the building will not be required to fill the entire solar zone. Instead, the number of solar panels installed must be sufficient to produce at least as much electricity (kWh) annually as the modeled electricity usage of the building.
- F. All new construction, alterations, and additions of nonresidential buildings shall be required to comply with all applicable measures listed in Appendix D.

Section 4: Exemptions

- A. The requirements of this section shall not apply to:
 - 1. Projects that have an active planning review application submitted on or before 30 days after final action by the State of California.
 - 2. Projects that are determined by the Community Development Director to be exempt from planning review.

Section 5: Hardship or Infeasibility Exemption

- A. If an applicant for a nonexempt project believes that circumstances exist that make it a hardship or infeasible to meet the requirements of this Resolution, they may apply for an exemption or reduction in requirements as set forth below. In applying for an exemption, the burden is on the applicant to show financial hardship or physical infeasibility.
- B. Application. If an applicant for a nonexempt project believes such circumstances exist, the applicant may apply for an exemption at the time of planning application submittal.
- C. Granting of Exemption. The granting of an exemption shall be made by the overall project decision-making authority. If an exemption is granted, the applicant shall be required to comply with this Chapter in all other respects.

1 D. Denial of Exemption. If the decision-making authority determines that it is possible for
2 the applicant to fully meet the requirements of this Chapter, they shall so notify the
3 applicant.
4

5 **Section 6: Effective Date; Prior Resolution Superseded**

6 The requirements of this Resolution shall be effective 30 days after final action by the
7 California Energy Commission (the “Effective Date”). This Resolution No. 2021-118 shall
8 supersede Resolution No. 2020-127 as of its effective date, except as specified in Section 1
9 herein.
10

11 **Section 7: Filing; Posting**

12 The City Clerk is hereby directed to file a copy of this Resolution with the California Building
13 Standards Commission and the California Energy Commission of the State of California. The
14 City Clerk is directed to cause copies of this Resolution to be posted or published as required
15 by law.
16

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20 GE'NELL GARY, MBA – MAYOR

21
22
23 **Attachments:**

- 24 Appendix A: Residential Energy Efficiency
25 Appendix B: Residential Non-Energy Measures
26 Appendix C: Non-Residential Energy Efficiency
27 Appendix D: Non-Residential Non-Energy Measures
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Appendix A: Residential Energy Efficiency

Single Family Mixed-Fuel Buildings: 10 EDR Margin

Single Family All-Electric Buildings: 4.7 Efficiency EDR Margin

Low-Rise Mixed-Fuel Buildings: 10.3 EDR Margin

Low-Rise All-Electric Buildings: 0 EDR Margin (no additional requirement)

Mid-Rise Mixed-Fuel Buildings: 6.7% Compliance Margin

Mid-Rise All-Electric Buildings: 0% Compliance Margin (no additional requirement)

High-Rise Mixed-Fuel Buildings: 6.7% Compliance Margin

High-Rise All-Electric Buildings: 0% Compliance Margin (no additional requirement)

Appendix B: Residential Non-Energy Measures

Measure	Construction type	Building type
Newly installed paving shall meet the Tier 2 requirements of the 2019 California Green Building Standards Code, Title 24, Part 11, Section A4.106.4.	New construction, alterations, and additions	Multi-family, Single family, and ADUs
In each unit where a dishwasher or clothes-washer is being installed, at least one dishwasher or clothes-washer shall be Energy Star approved.	New construction, alterations, and additions	Multi-family, Single family, and ADUs
Kitchen faucets shall have a maximum flow rate of no more than 1.5 gallons per minute.	New construction, alterations, and additions	Multi-family, Single family, and ADUs
The cement content of all concrete shall be reduced by at least 25%. The cement shall be replaced by fly ash, slag, silica fume, rice hull ash, or another suitable material.	New construction, alterations, and additions	Multi-family, Single family, and ADUs
At least 90% of the total area of resilient flooring installed shall comply with the VOC-emissions limits set forth in the 2019 California Green Building Standards Code, Title 24, Part 11, Section A4.504.2	New construction, alterations, and additions	Multi-family, Single family, and ADUs

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Appendix C: Non-Residential Energy Efficiency

Mixed-Fuel Office Building: 20% Compliance Margin

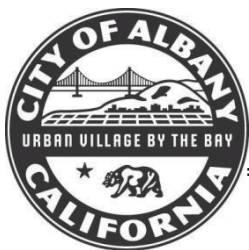
All Electric Office Building: 10% Compliance Margin

Mixed-Fuel Retail Building: 16% Compliance Margin

All Electric Retail Building: 16% Compliance Margin

Appendix D: Non-Residential Non-Energy Measures

Measure	Construction Type
Designated parking spaces for clean air vehicles shall make up 12% of the parking spaces constructed, rounding to the nearest whole number. Parking spaces shall be marked as described in 2019 California Green Building Standards Code, Title 24, Part 11, Section A5.106.4.1.3.	New construction, alterations, and additions
Outdoor lighting shall comply with 2019 California Green Building Standards Code, Title 24, Part 11, Section A5.203.1.1.1	New construction, alterations, and additions
A 12% reduction in potable water use within the building will be achieved by complying with 2019 California Green Building Standards Code, Title 24, Part 11, Section A5.303.2.3.1	New construction only
Concrete shall comply with 2019 California Green Building Standards Code, Title 24, Part 11, Sections A5.405.2.1 and A5.405.2.1.1	New construction, alterations, and additions
At least 90% of the total area of resilient flooring installed shall comply with the VOC-emissions limits set forth in the 2019 California Green Building Standards Code, Title 24, Part 11, Section A4.504.4.7	New construction, alterations, and additions



City of Albany

1000 San Pablo Avenue • Albany, California 94706
(510) 528-5710 • www.albanyca.org

RESOLUTION NO. 2021-118

PASSED AND APPROVED BY THE COUNCIL OF THE CITY OF ALBANY,

The 6th day of December, 2021, by the following votes:

AYES: Council Members Jordan, McQuaid, Nason, Tiedemann and Mayor Gary

NOES: none

ABSENT: none

ABSTAINED: none

RECUSED: none

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this 7th
day of December, 2021.

Anne Hsu
CITY CLERK