

# City of Albany



**TO:** ALBANY PLANNING & ZONING COMMISSION

**FROM:** ANNE HERSCH, AICP, CITY PLANNER

**SUBJECT:** Green Building Ordinance Update

**DATE:** January 17, 2013

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## **REQUEST**

Green Building Ordinance Update – The Planning & Zoning Commission will review draft revisions to the Green Building Ordinance and may recommend further changes to the draft document.

## **STAFF RECOMMENDATION**

Staff recommends that the Planning and Zoning Commission do the following:

- Receive the report
- Review the draft changes

## **BACKGROUND**

The City of Albany, in collaboration with the Cities of El Cerrito, Piedmont, and San Pablo, received the Small Cities Climate Action Partnership Grant through the Environmental Protection Agency (EPA) in February 2010. Under the Small Cities Climate Action Partnership (ScCAP), all four cities have been working together to share their work, processes, and best practices as they implement various energy efficiency projects and policies. The total grant amount shared by the four Cities is \$497,488. The grant remains effective through December 2012. As part of the grant, the City of Albany is required to update the Green Building Ordinance. Additionally, the City's Climate Action Plan contains policy requiring the update of the Ordinance to reduce greenhouse gas emissions.

CAP Measure#	Measure	Action
BE 3.1	Require new construction to comply with <b>Tier 2 energy efficiency standards</b> contained within Section 503.1.2 of the CA Green Building Code	Amend the <b>Green Building Ordinance</b> to incorporate the <b>Tier 2 energy efficiency standards</b> contained in section 503.1.2 of the 2008 CA Green Building Code as the required standards for energy efficiency for new construction

Tier 2 energy efficiency standards are more applicable to more seasonal climates, such as the Central Valley, where energy usage is much greater, particularly air conditioning in warm weather months. In Albany the climate is more moderate and the need for air conditioning is minimal. Consequently, Tier 2 energy efficiency standards are much harder to achieve with local climate conditions.

## **ANALYSIS**

### Green Building Ordinance Update Meeting

One final Green Building Ordinance Subcommittee meeting was held on December 19, 2012. The final draft language included for Commission review.

Project Description		Building Improvements		
		Checklist Required	Minimum Threshold	Third-party Verification
City Sponsored Projects	New construction <b>less</b> than 9,999 sq ft	LEED Checklist	Maximum points practicable	At plan check only
	New construction <b>more</b> than 10,000 sq ft		LEED Gold Certified (39 points)	US Green Bldg Council
	Renovation <b>less</b> than 9,999 sq ft	LEED Checklist	Maximum points practicable	At plan check only
	Renovation <b>more</b> than 10,000 sq ft		LEED Gold (32 points)	At plan check only
Commercial Construction & Renovation Projects	New construction <b>less</b> than 9,999 sq ft	LEED- Checklist	Maximum points practicable	At plan check only
	New construction <b>more</b> than 10,000 sq ft		LEED Gold Certified (39 points)	US Green Bldg Council
	Renovation <b>less</b> than 9,999 sq ft	LEED- Checklist	Maximum points practicable	At plan check only
	Renovation <b>more</b> than 10,000 sq ft		LEED Gold Equivalency (32 points)	US Green Bldg Council
Single Family Residential	New construction or renovations subject to Section 11-2.3 "Fire Extinguishing Systems" of the Albany Municipal Code	Single-Family Greenpoint Checklist Or LEED	75 Points	Build It Green Certification
	Renovation subject to Design Review	Green Points Rating System for Remodeling projects or LEED	75 Points	Checklist at Planning Application

<b>Multi-family Residential</b>	New construction or renovation of less than 5 units	Multifamily Greenpoint Checklist (2005 Edition version v.2)	Maximum points practicable	City Staff and/or certified 3rd party inspection
	New construction or renovation of 5 units or more		75 Points	
<b>Mixed Use</b>	Consult with Planning Division staff			

**Attachments:**

1. Chapter 20.68 of the Albany Municipal Code with proposed revisions
2. City of Albany Green Building Checklist
3. Current Residential Remodel, New Single Family Construction, Existing Multi-Family, and New Multi-Family Checklists from Build it Green
4. LEED Checklists for new commercial construction, existing

**ATTACHMENT 1**  
**SECTION 20.68 OF THE ALBANY MUNICIPAL CODE**

**SECTION 20.68 GREEN BUILDING AND BAY-FRIENDLY LANDSCAPING REGULATIONS**

**20.68.010 Purpose.**

To promote economic and environmental health in the City, it is essential that the City itself, through the design, construction, operation and deconstruction of its own facilities and facilities it funds, provide leadership to both the private and public sectors by incorporating green building and bay-friendly landscaping practices. The most immediate and meaningful way to do this is to require the integration of green building and bay-friendly landscaping strategies in City and public-private partnerships buildings and landscapes. (Ord. No. 06-016)

**20.68.020 Definitions.**

As used in this section:

Compliance Official. The Community Development Director shall be authorized and responsible for implementing this section as the Green Building and Bay-Friendly Landscaping Compliance Official.

**20.68.030 Standard for Compliance.**

The City Council shall establish by resolution, and periodically review and update as necessary, Green Building and Bay-Friendly Landscaping Standards of Compliance. The standards of compliance shall include, but not be limited to, the following elements:

- A. Types of projects subject to regulation
- B. Guidelines or checklists to be applied to various types of projects:

**1. Residential Projects**-residential remodel projects subject to Design Review including additions to single family homes, accessory structures greater than 120 sq. ft., new single-family construction, and multi-family construction shall comply with the following:

- a. Residential additions and accessory structures applications shall require completion of the Build it Green Green Point Rating System for Remodeling Projects
- b. New single-family homes shall require completion of the Single-Family Build it Green Green Point Rating System Checklist
- c. Multi-Family construction shall require completion of the Multi-Family Build it Green Green Point Rating System Checklist

**2. Commercial Projects-** commercial projects subject to Design Review including *renovations to existing commercial buildings*, new commercial construction shall be required to complete a LEED checklist as part of the project.

**3. City Sponsored Projects-** City owned facilities subject to Design Review including renovation or new construction shall be required to complete a LEED checklist as part of the project.

C. Minimum threshold of compliance for various types of projects

1. Thresholds for compliance shall be established by City Council resolution.

D. Timing and method of verification of compliance with regulations

1. Compliance verification shall be established by City Council resolution.

E. Definitions of terms used in the Standards of Compliance

The standards of compliance shall be based on the recommendation of the Planning and Zoning Commission. (Ord. No. 06-016)

#### **20.68.040 Promulgation of Implementing Regulations.**

A. Implementation of this section shall commence July 1, 2007. The Community Development Director shall promulgate any rules and regulations necessary or appropriate to achieve compliance with the requirements of this section. The initial rules and regulations shall be promulgated after securing and reviewing comments from affected City agencies and departments.

B. The rules and regulations promulgated by the Community Development Department under this section shall provide for at least the following:

1. The incorporation of the green building and bay-friendly landscaping requirements of this section into the appropriate design, construction, maintenance and development agreement documents prepared for the applicable projects.

2. The Compliance Official(s) shall have the responsibility to administer and monitor compliance with the green building and bay-friendly landscaping requirements set forth in this section and with any rules and regulations promulgated thereunder, and to grant waivers or exemptions from the requirements of this section. (Ord. No. 06-016)

#### **20.68.050 Hardship or Infeasibility Exemption.**

A. 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 section, they may apply for

an exemption as set forth below. In applying for an exemption, the burden is on the applicant to show hardship or infeasibility.

B. Application. If an Applicant for a covered project believes such circumstances exist, the applicant may apply for an exemption at the time of application submittal. The applicant shall indicate the maximum number of credits he or she believes make it a hardship or infeasible to comply fully with this section. Such circumstances may include, but are not limited to, availability of markets for materials to be recycled, availability of green building materials and technologies, and compatibility of green building requirements with other government requirements and building standards.

C. Meeting with Compliance Official. The Compliance Official shall review the information supplied by the applicant, may request additional information from the applicant, and may meet with the applicant to discuss the request.

D. Granting of Exemption. If the Compliance Official determines that it is a hardship or infeasible for the applicant to meet fully the requirements of this section based on the information provided, the Compliance Official shall determine the maximum feasible number of credits reasonably achievable for the project. If an exemption is granted, the applicant shall be required to comply with this section in all other respects and shall be required to achieve, in accordance with this section, the number of credits determined to be achievable by the Compliance Official.

E. Denial of Exemption. If the Compliance Official determines that it is possible for the applicant to fully meet the requirements of this section, they shall so notify the applicant in writing.

(Ord. No. 06-016)

**20.68.060 Appeal.**

A. Any aggrieved applicant or person may appeal the determination of the Compliance Official regarding: (i) the granting or denial of an exemption pursuant to Section 20.68.060; or (ii) compliance with the section pursuant to subsection 20.68.050.

B. Any appeal must be filed in writing with the Community Development Department within fourteen (14) days of the determination by the Compliance Official. The appeal shall state the alleged error or reason for the appeal. In reviewing the appeal, the City Council may request additional written or oral information from the applicant or Compliance Official. The Planning and Zoning Commission shall hold a public hearing regarding the appeal within forty (40) days of the date when the appeal was filed.

(Ord. No. 06-016)

**20.68.070 Severability.**

If any subsection, subdivision, paragraph, sentence, clause or phrase of this section, or any part thereof, is for any reason held to be unconstitutional, invalid, or ineffective by any court of

competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this section or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, and phrase of this section irrespective of the fact that one (1) or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, invalid, or effective. To this end, the provisions of this section are declared to be severable. (Ord. No. 06-016)