

City of Albany



TO: ALBANY SUSTAINABILITY COMMITTEE
FROM: ANNE HERSCH, AICP, CITY PLANNER
SUBJECT: Green Building Ordinance Update
DATE: March 20, 2013

STAFF RECOMMENDATION

Green Building Ordinance Update – The Sustainability Committee review the proposed amendments to the Green Building Ordinance and the revised threshold requirements and forward a recommendation to the City Council to adopt amendments to Ordinance 06-016.

ATTACHMENTS

1. Resolution 2013-01 with Exhibit A

**PLANNING & ZONING COMMISSION
RESOLUTION 2013-01**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF ALBANY, COUNTY OF ALAMEDA, STATE OF CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL ADOPT AMENDMENTS TO CHAPTER 20.68 “GREEN BUILDING & BAY FRIENDLY LANDSCAPING” REGULATIONS OF THE ALBANY MUNICIPAL CODE

WHEREAS, in 2006 the City of Albany adopted Green Building & Bay Friendly Landscaping policy provisions contained in Section 20.68 of the Albany Municipal Code; and

WHEREAS, Section 20.68.030 Standard for Compliance of the Albany Municipal Code states that the standards of compliance shall be based on the recommendation of the Planning and Zoning Commission; and

WHEREAS, the City of Albany received an EPA Small Cities Showcase case which stipulated that the City’s Green Building Ordinance be amended; and

WHEREAS, Climate Action Plan Measure BE 3.1 specifies that the City’s Green Building Ordinance be amended Ordinance to incorporate the Tier 2 energy efficiency standards contained in section 503.1.2 of the 2008 CA Green Building Code as the required standards for energy efficiency for new construction; and

WHEREAS, a Green Building Ordinance Subcommittee was formed in 2011 and included members of the City’s Planning & Zoning Commission and Sustainability Committee; and

WHEREAS, Subcommittee meetings were held on Thursday November 3, 2011, Thursday December 1, 2011, Thursday, January 25, 2012, Thursday, April 5, 2012, and December 19, 2012; and

WHEREAS, the Planning & Zoning Commission reviewed draft revisions to the Green Building Ordinance on May 22, 2012, October 24, 2012, and January 17, 2013; and

WHEREAS, the Subcommittee made recommendations to amend the minimum thresholds for Build It Green requirements for residential projects, LEED equivalency and LEED certification for commercial and City-sponsored projects; and

WHEREAS, the minimum thresholds for review are to be adopted by Council resolution as part of the new amendments to Section 20.68 of the Albany Municipal Code; and

WHEREAS, the Planning Commission reviewed the staff report and determined that the policy updates are exempt from CEQA pursuant to Section 15060 (c) (2); and

WHEREAS, a public hearing notice was posted in three public places on Friday, March 30, 2012 pursuant to Government Code Section 65090; and

WHEREAS, the Planning & Zoning Commission has held a public hearing, considered all public comments received, the presentation by City staff, the staff report, and all other pertinent documents regarding the proposed request; and

WHEREAS, the final General Plan and the Zoning Code are incorporated herein by reference, and are available for review at City Hall during normal business hours.

NOW, THEREFORE, the City of Albany Planning & Zoning Commission does hereby **RESOLVE** as follows:

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)

NOW THEREFORE BE IT RESOLVED by the Planning & Zoning Commission of the City of Albany hereby recommends that the City Council of the City of Albany adopt amendments to Ordinance 06-016 and adopt a resolution establishing thresholds for review contained in Exhibit A.

PASSED, APPROVED AND ADOPTED this 27th day of February, 2013 by the following vote:

AYES-

NOES-

ABSENT-

ABSTENTION-

Planning Commission Chairperson Eisenmann

ATTEST:

Anne Hersch, City Planner

**EXHIBIT A
GREEN BUILDING THRESHOLD TABLE**

Project Description		Building Improvements		
		Checklist Required	Minimum Threshold	Verification/Certification
City Sponsored Projects	New construction less than 10,000 sq ft	LEED Checklist	Maximum points practicable	At plan check only
	New construction 10,000 sq ft or greater		LEED Gold Certified (39 points minimum)	US Green Bldg Council
	Renovation less than 10,000 sq ft	LEED Checklist	Maximum points practicable	At plan check only
	Renovation 10,000 sq ft or greater		LEED Gold Equivalency (39 points minimum)	Third Party Verification
Commercial Construction & Renovation Projects	New construction less than 10,000 sq ft	LEED- Checklist	Maximum points practicable	At plan check only
	New construction 10,000 sq ft or greater		LEED Gold Certified (39 points minimum)	US Green Bldg Council
	Renovation less than 10,000 sq ft	LEED- Checklist	Maximum points practicable	At plan check only
	Renovation 10,000 sq ft or greater		LEED Gold Equivalency (39 points minimum)	Third Party Verification
Single Family Residential	New construction or renovations subject to Section 11-2.3 "Fire Extinguishing Systems" of the Albany Municipal Code	Green Points Rating System for New Construction or LEED	75 Points (minimum)	US Green Bldg Council or LEED

	New Construction or Renovations subject to Design Review (Planning & Zoning Commission and Admin Review)	Green Points Rating System for Remodeling projects or LEED	75 Points (minimum)	Checklist at Planning Application + Third Party Verification
Single -Family Residential	All other permits where existing space is being renovated	Green Points Rating System for Remodeling projects	Most Points Practical	Plan Check
Multi-family Residential	New construction or renovation of less than 3 units	Multifamily Greenpoint Checklist	Maximum points practicable	City Staff Review
	New construction or renovation of 2 units or more	Multifamily Greenpoint Checklist	75 Points	Build It Green
	Renovation of 3 units or more	Multifamily Greenpoint Checklist or LEED	75 Points	Third Party Verification
Mixed Use	All	Green Point Checklist Or LEED	Consult with Planning Division Staff	