

1 **WHEREAS**, the Subcommittee made recommendations to amend the minimum
2 thresholds for Build It Green requirements for residential projects, LEED equivalency and LEED
3 certification for commercial and City-sponsored projects; and
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5 **WHEREAS**, the minimum thresholds for review are to be adopted by Council resolution
6 as part of the new amendments to Section 20.68 of the Albany Municipal Code; and
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8 **WHEREAS**, the Planning & Zoning Commission reviewed the staff report and
9 determined that the policy updates are exempt from CEQA pursuant to Section 15060 (c) (2);
10 and
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12 **WHEREAS**, pursuant to the public notice requirements of Planning and Zoning Code
13 Section 20.100.070 and Government Code Section 65090, on February 13, 2013, the Planning
14 and Zoning Commission adopted a Resolution of Intention to adopt amendments to the Green
15 Buildign Cod ; and

16 **WHEREAS**, the Planning & Zoning Commission has held a public hearing, considered
17 all public comments received, the presentation by City staff, the staff report, and all other
18 pertinent documents regarding the proposed amendments, and voted to recommend that the City
19 Council approve the amendments; and

20 **WHEREAS**, the Sustainability Committee discussed revisions to the Green Building
21 program on February 15, 2012, April 18, 2012, November 27, 2012, January 16, 2013, and
22 March 20, 2013; and

23 **WHEREAS**, on March 20, 2013, the Sustainability Committee voted to recommend that
24 the City Council approve the amendments.
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1 **NOW, THEREFORE**, the Albany City Council ordains that Planning and Zoning Code
2 Section 20.68 Green Building and Bay-Friendly Landscaping Regulations be amended as
3 follows:
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6 **20.68.010 Purpose.**
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9 To promote economic and environmental health in the City, it is essential that the City
10 itself, through the design, construction, operation and deconstruction of its own facilities and
11 facilities it funds, provide leadership to both the private and public sectors by incorporating
12 green building and bay-friendly landscaping practices. The most immediate and meaningful way
13 to do this is to require the integration of green building and bay-friendly landscaping strategies in
14 City and public-private partnerships buildings and landscapes. (Ord. No. 06-016)
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17 **20.68.020 Definitions.**
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19 As used in this section:

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21 **Compliance Official.** The Community Development Director shall be authorized and
22 responsible for implementing this section as the Green Building and Bay-Friendly Landscaping
23 Compliance Official.
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26 **20.68.030 Standard for Compliance.**
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1 The City Council shall establish by resolution, and periodically review and update as
2 necessary, Green Building and Bay-Friendly Landscaping Standards of Compliance. The
3 standards of compliance shall include, but not be limited to, the following elements:
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6 A. Types of projects subject to regulation
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9 B. Guidelines or checklists to be applied to various types of projects:
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11 **1. Residential Projects-residential remodel projects subject to Design**
12 **Review including additions to single family homes, accessory structures**
13 **greater than 120 sq. ft., new single-family construction, and multi-family**
14 **construction shall comply with the following:**
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16 **a. Residential additions and accessory structures applications**
17 **shall be required to complete the Build it Green Green Point Rating**
18 **System for Remodeling Projects**

19 **b. New single-family homes shall be required to complete the**
20 **Single-Family Build it Green Green Point Rating System Checklist or**
21 **LEED checklist.**

22 **c. Multi-Family construction shall be required to complete the**
23 **Multi-Family Build it Green Green Point Rating System Checklist or**
24 **LEED checklist.**
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1 **2. Commercial Projects- commercial projects subject to Design Review**
2 **including renovations to existing commercial buildings, new commercial**
3 **construction shall be required to complete a LEED checklist as part of the**
4 **project.**
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8 **3. City Sponsored Projects- City owned facilities subject to Design**
9 **Review including renovation or new construction shall be required to**
10 **complete a LEED checklist as part of the project.**
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12 C. Minimum threshold of compliance for various types of projects
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15 **1. Thresholds for compliance shall be established by City Council**
16 **resolution.**
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18 D. Timing and method of verification of compliance with regulations
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20 **1. Compliance verification shall be established by City Council**
21 **resolution.**
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23 E. Definitions of terms used in the Standards of Compliance
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26 The standards of compliance shall be based on the recommendation of the Planning and
27 Zoning Commission. (Ord. No. 06-016)
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2 **20.68.040 Promulgation of Implementing Regulations.**
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5 A. Implementation of this section shall commence July 1, 2007. The Community
6 Development Director shall promulgate any rules and regulations necessary or appropriate to
7 achieve compliance with the requirements of this section. The initial rules and regulations shall
8 be promulgated after securing and reviewing comments from affected City agencies and
9 departments.
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12 B. The rules and regulations promulgated by the Community Development
13 Department under this section shall provide for at least the following:
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16 1. The incorporation of the green building and bay-friendly landscaping
17 requirements of this section into the appropriate design, construction, maintenance and
18 development agreement documents prepared for the applicable projects.
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20 2. The Compliance Official(s) shall have the responsibility to administer and
21 monitor compliance with the green building and bay-friendly landscaping requirements set forth
22 in this section and with any rules and regulations promulgated thereunder, and to grant waivers
23 or exemptions from the requirements of this section. (Ord. No. 06-016)
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25 **20.68.050 Hardship or Infeasibility Exemption.**
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1 A. Exemption. If an applicant for a covered project believes that circumstances exist
2 that make it a hardship or infeasible to meet the requirements of this section, they may apply for
3 an exemption as set forth below. In applying for an exemption, the burden is on the applicant to
4 show hardship or infeasibility.
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8 B. Application. If an Applicant for a covered project believes such circumstances
9 exist, the applicant may apply for an exemption at the time of application submittal. The
10 applicant shall indicate the maximum number of credits he or she believes make it a hardship or
11 infeasible to comply fully with this section. Such circumstances may include, but are not limited
12 to, availability of markets for materials to be recycled, availability of green building materials
13 and technologies, and compatibility of green building requirements with other government
14 requirements and building standards.
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17 C. Meeting with Compliance Official. The Compliance Official shall review the
18 information supplied by the applicant, may request additional information from the applicant,
19 and may meet with the applicant to discuss the request.
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21 D. Granting of Exemption. If the Compliance Official determines that it is a hardship
22 or infeasible for the applicant to meet fully the requirements of this section based on the
23 information provided, the Compliance Official shall determine the maximum feasible number of
24 credits reasonably achievable for the project. If an exemption is granted, the applicant shall be
25 required to comply with this section in all other respects and shall be required to achieve, in
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1 accordance with this section, the number of credits determined to be achievable by the
2 Compliance Official.

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

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9 (Ord. No. 06-016)

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11 **20.68.060 Appeal.**

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14 A. Any aggrieved applicant or person may appeal the determination of the
15 Compliance Official regarding: (i) the granting or denial of an exemption pursuant to Section
16 20.68.060; or (ii) compliance with the section pursuant to subsection 20.68.050.

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

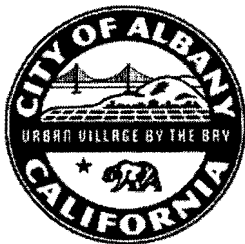
24 (Ord. No. 06-016)

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27 **20.68.070 Severability.**

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



City of Albany

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ORDINANCE NO. 2013-01

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

this 15th day of April, 2013, by the following votes:

AYES: Council Members Atkinson, Barnes, Maass, Vice Mayor Wile, and Mayor Thomsen

NOES: none

ABSENT: none

WITNESS MY HAND AND THE SEAL OF THE CITY OF ALBANY, this

16th Day April, 2013.

Eileen Harrington
DEPUTY CITY CLERK